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PLEASE RESPOND TO TOLEDO OFFICE

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April 1, 2015

RECEIVED APR 03 2015

VIA FED EX

Margaret Herring, Civil Investigator  
U.S. Environmental Protection Agency, Region 5  
Superfund Division  
Enforcement and Compliance Assurance  
Branch (SE-5J)  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

**Re: Request for Information for the South Dayton Dump and Landfill  
Site in Moraine, Ohio**

Dear Ms. Herring:

This letter is submitted on behalf of The Sherwin-Williams Company in response to the U.S. Environmental Protection Agency's (EPA) January 16, 2015 Request for Information for the above-captioned matter. I understand that this response will be considered timely submitted based on communications with Thomas Nash, EPA attorney. I also understand that the time period for operation of the landfill used by EPA is 1941 to 1996. As such, the request seeks information regarding persons not living and activities that transpired decades ago. Without waiving any objections, Sherwin-Williams responds as follows:

1. The following persons have been consulted in preparation of the answers to these questions:

Raymond Graff  
District Manager  
The Sherwin-Williams Company  
3033 South Kettering Boulevard  
Dayton, Ohio 45439

Dan Miller  
Store Manager  
The Sherwin-Williams Company  
70 Walnut Street  
Dayton, Ohio 45402



Marshall Patterson  
Sales/Service  
The Sherwin-Williams Company  
2390 Arbor Blvd.  
Dayton, Ohio 45439

Roger Porter  
Mechanic/Sales  
The Sherwin-Williams Company  
2390 Arbor Boulevard  
Dayton, Ohio 45439

Norman Gunn  
Former Manager  
The Sherwin-Williams Company  
101 Prospect Avenue  
Cleveland, Ohio 44115

Debbie Hutton  
Legal Department  
The Sherwin-Williams Company  
101 Prospect Avenue  
Cleveland, Ohio 44115

2. See attached documents, including the 2013 deposition of Edward Grillo and the 2014 deposition of Michael Wendling. EPA also provided Sherwin-Williams with copies of depositions in response to a 2012 Freedom of Information Act request.
3. Sherwin-Williams has not identified any persons who may be able to provide a more detailed or complete response to any questions or who may be able to provide additional responsive documents.
4. Sherwin-Williams understands this question to request information on any former or current employees in the area of interest for the Site. Raymond Graff, Marshall Patterson and Norman Gunn (see above references), may be knowledgeable about Sherwin-Williams' operations and/or waste or disposal. Sherwin-Williams has not identified any information that any waste or waste containing hazardous substances was disposed at SDDL.
5. Sherwin-Williams has not identified any information that it sent, bought or moved any drums and/or hazardous substances to the SDDL. There is no credible evidence that Sherwin-Williams disposed of any waste or hazardous substances at the SDDL Site.

6. Sherwin-Williams has not identified any information that it hauled any materials to the SDDL or that it hauled any materials to the SDDL in any vehicles it owned, leased or operated. Sherwin-Williams did not haul its own trash or use any Sherwin-Williams vehicle to haul waste.
7. For questions 7 to 12, Sherwin-Williams understands that EPA is seeking information regarding the area of interest for the Site. Sherwin-Williams has not identified any permits for the transport and/or disposal of waste materials.
8. See response to question 7.
9. At the Sherwin-Williams store on 2390 Arbor Boulevard in Dayton, small amounts of used solvents were sent out to be reclaimed for reuse. To the best of its knowledge, these reclamation companies were permitted RCRA facilities.
10. See response to question 7.
11. Sherwin-Williams does not have a treatment storage and disposal permit facility under the Resource Conservation and Recovery Act or under the hazardous substances laws of the State of Ohio for any facility in the area of interest of the Site. The Sherwin-Williams retail store at 2390 Arbor Boulevard in Dayton is a small quantity generator with the EPA Identification Number OHD 07 1273114. See response to question 9.
12. To the best of its knowledge, Sherwin-Williams has not identified any Notification of Hazardous Waste Activity with the EPA or corresponding agency of the State of Ohio. See response to question 11.
13. Sherwin-Williams understands the question to identify individuals who have responsibility for environmental matters in the area of interest for the Site. The person who currently has responsibility for the Sherwin-Williams Dayton area retail paint stores is Raymond Graff, District Manager, The Sherwin-Williams Company, 3033 South Kettering Boulevard, Dayton, Ohio. Norman Gunn, a former manager at the Sherwin-Williams store on 615 Patterson Boulevard, Dayton, Ohio and the store on 2390 Arbor Boulevard in Dayton from the early 1970's to approximately 1985, was familiar with trash disposal. Walter Lake a former manager at the Sherwin-Williams store on 2390 Arbor Boulevard, had responsibility for trash disposal.
14. Sherwin-Williams retail stores had waste dumpsters and use approved vendors to haul trash. Sherwin-Williams has not identified any information on any coloring or labeling on a dumpster.

15. Sherwin-Williams has not identified records of any contracts, agreements or other arrangements for disposal treatment or recycling in the area of interest for the Site or any correspondence or communication between Sherwin-Williams and Cyril Grillot, Kenneth Grillot, Alcine Grillot or Horace Boesch, Sr.
16. See response to question 15 above.
  - 16.g. Sherwin-Williams has not identified information on where waste was sent.
  16. h. We have identified information that the Sherwin-Williams store at 2390 Arbor Boulevard, Dayton, used Safety Kleen, Chemical Waste Management, Hazmat Environment and Solvent Resource Recovery Company for reclaiming small amounts of dirty solvent. (The store is a small quantity generator and generates a small amount of used solvents for reclamation). Blaylock and Koogler Suburban Waste Haulers was used to haul trash.
  - 16.i. Sherwin-Williams did not transport waste itself, and used an outside hauler.
  - 16.j. See response to question 16.h.
  - 16.k. Sherwin-Williams has not identified any information on frequency of waste pickup.
  - 16.l. The Sherwin-Williams store on 2390 Arbor Boulevard generated 55 to 100 gallons per month of used solvent which was sent out to be reclaimed for use. Sherwin-Williams has not identified any information on volume of trash hauled for disposal. Sherwin-Williams did not dispose of 55 gallon drums.
  - 16.m. The Sherwin-Williams store at 2390 Arbor Boulevard used Blaylock and Koogler Suburban Waste Haulers for some period up to 1994. The Sherwin-Williams store at 2390 Arbor Boulevard used the following entities to reclaim used solvent: Safety Kleen (1991-1993), Chemical Waste Management (1989-1990), Hazmat Environment (1986-1989) and Solvent Resource Recovery Company (1982-1983).
  - 16.n. Sherwin-Williams has not identified any documents regarding Waste Carriers.
  - 16.o. Sherwin-Williams has not identified information on vehicles used by any Waste Carrier.
  - 16.j. Sherwin-Williams has not identified any employees of Waste Carrier.



- 16.k. Sherwin-Williams has not identified any disposal location.
- 16.l. Sherwin-Williams has not identified any documents regarding disposal location. Sherwin-Williams sent used solvent to a reclamation facility.
- 16.m. Sherwin-Williams has not identified any information regarding method of inventorying, method of requesting, method of requesting each type of waste, or pick up or identity of waste carrier employee/agent.
- 16.n. Sherwin-Williams has not identified information on the individuals or organization who selected any location for wastes to be taken.
- 16.o. Sherwin-Williams has not identified any documents.
- 16.p. Sherwin-Williams has not identified any information about wastes disposed into drains. Please note that Company policy prohibits disposal of waste into drains.
- 16.q. Sherwin-Williams has not identified any information on a sewage authority or treatment works.
- 16.r. Sherwin-Williams has not identified any information that any wastes were taken to the SDDL Site. Also, there is no credible evidence that Sherwin-Williams contributed waste to the SDDL Site.
- 17. See response to question 11 above. The RCRA identification number for the store at 2390 Arbor Boulevard in Dayton is OHD 07 1273114.
- 18. Sherwin-Williams has not identified information on any federal offices.
- 19. See response to question 18.
- 20. Filings for any hazardous waste information would go to Ohio EPA in Columbus, Ohio.
- 21. Sherwin-Williams has not identified the years such information was filed.
- 22. For any facilities in the area of interest for the Site, Sherwin-Williams has not identified any reports filed under the referenced statutes.
- 23. See response to question 22 above.

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Sherwin-Williams' review is continuing, and Sherwin-Williams reserves the right to supplement this response should additional responsive information become known or available.

Sincerely,

A handwritten signature in black ink, appearing to read "R.H. Eddy", written over the printed name.

Robert H. Eddy

RHE/tah

Enclosures

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION  
\* \* \*

HOBART CORPORATION,  
et al.,  
Plaintiffs,                   CASE NO. 3:13-cv-115  
vs.                               VOLUME I  
THE DAYTON POWER AND LIGHT  
COMPANY, et al.,  
Defendants.  
\* \* \*

Deposition of EDWARD GRILLOT, Witness  
herein, called by the Plaintiffs for direct  
examination pursuant to the Rules of Civil  
Procedure, taken before me, Barbara A. Nikolai, a  
Notary Public in and for the State of Ohio, at  
Sebaly, Shillito + Dyer, 1900 Kettering Tower,  
40 North Main Street, 13th Floor Conference Room,  
Dayton, Ohio, on Monday, December 16th, 2013, at  
9:22 o'clock a.m.  
\* \* \*

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EXAMINATIONS CONDUCTED	PAGE
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EXHIBIT MARKED	
(Thereupon, Defendants' Exhibit Number 1, map of various landfills, was marked for purposes of identification.)	224

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APPEARANCES:

On behalf of the Plaintiffs:

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and  
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and Dayton Industrial Drum:

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On behalf of the Defendants Cargill,  
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duke.mccall@bingham.com

On behalf of the Defendant La Mirada Products:

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On behalf of the Defendants Flowserve  
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Standard Register:

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On behalf of the Defendant Day International, Inc.:

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\* \* \*

MR. ROMINE: Good morning, Mr.

Grillot.

MR. GRILLOT: How are you?

MR. ROMINE: My name is David Romine, and I represent three companies, NCR Corporation, Hobart Corporation and Kelsey-Hayes Company in a lawsuit.

We're here to ask you some questions about a place called the South Dayton Dump, and what I'm going to do now is go around the room. We have a room full of lawyers here.

We're going to go around the room and ask the lawyers to identify themselves and who they represent.

We also have some lawyers on the telephone speaker phone. When we're done here in the room, we're going to ask the lawyers on the speaker phone to identify themselves so that we all know who's participating.

MR. GRILLOT: Okay.

EDWARD GRILLOT

of lawful age, Witness herein, having been first duly cautioned and sworn, as hereinafter certified, was examined and said as follows:

DIRECT EXAMINATION

09:22:48 1 BY MR. ROMINE:  
 09:22:48 2 Q. So, again, I'm David Romine  
 09:22:50 3 representing the plaintiffs.  
 09:22:52 4 MS. MEYER: I'm Jennifer Meyer  
 09:22:53 5 representing plaintiffs.  
 09:22:55 6 MR. DICKERSON: Jay Dickerson  
 09:22:55 7 representing La Mirada Products.  
 09:22:59 8 MR. HAUGHEY: Steve Haughey  
 09:22:59 9 representing Flowserve Corporation, University of  
 09:23:02 10 Dayton, and Standard Register.  
 09:23:05 11 MR. ROBERTS: Rob Roberts, in-house  
 09:23:07 12 counsel with Flowserve Corporation.  
 09:23:08 13 MR. SHARETT: Anthony Sharett with  
 09:23:10 14 Bricker and Eckler representing Dayton Power and  
 09:23:11 15 Light.  
 09:23:12 16 MS. SLACK: Sarah Slack. I'm with  
 09:23:14 17 Foley and Lardner and I represent Kimberly-Clark  
 09:23:21 18 Corporation.  
 09:23:21 19 MR. ANDREASEN: John Andreasen,  
 09:23:23 20 McGrath North law firm representing ConAgra  
 09:23:27 21 Grocery Products Company.  
 09:23:28 22 MR. STINSON: Peter Stinson  
 09:23:28 23 representing PPG Industries, Inc.  
 09:23:28 24 MR. RUDLOFF: Andrew Rudloff with  
 09:23:33 25 Subashi and Wildermuth representing the Dayton

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09:23:38 1 Board of Education.  
 09:23:38 2 MR. HARBECK: Bill Harbeck  
 09:23:38 3 representing Waste Management of Ohio.  
 09:23:39 4 MR. SLAUGHTER: Jimmy Slaughter,  
 09:23:40 5 Beveridge and Diamond, representing Ohio Bell.  
 09:23:42 6 MR. MCCALL: Duke McCall representing  
 09:23:44 7 Reynolds and Reynolds.  
 09:23:46 8 MR. MUSTO: John Musto representing  
 09:23:47 9 the City of Dayton, Ohio.  
 09:23:47 10 MR. COUGHLIN: Good morning. I'm  
 09:23:51 11 Bill Coughlin. I represent DAF Products Inc., no  
 09:23:54 12 comma.  
 09:23:56 13 MS. RHINEHART: Erin Rhinehart. I  
 09:23:57 14 represent Cox Media Group, Ohio.  
 09:23:59 15 MR. PIERCE: David Pierce at Coolidge  
 09:24:01 16 Wall. I represent Fickert, Devco and Dayton  
 09:24:04 17 Industrial Drum.  
 09:24:07 18 MR. COLLIER: Orla Collier with the  
 09:24:07 19 law firm of Benesch, Friedlander, Coplan and  
 09:24:09 20 Aronoff. I represent L.M. Berry Company.  
 09:24:12 21 MR. SAXTON: John Saxton. I  
 09:24:13 22 represent Peerless.  
 09:24:17 23 MR. ROMINE: And people on the  
 09:24:20 24 telephone.  
 09:24:20 25 MS. WRIGHT: Vicki Wright, Krieg

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09:24:27 1 Devault for Pharmacia, LLC.  
 09:24:27 2 MR. COOK: Jerome Cook, McDonald  
 09:24:32 3 Hopkins, Day International.  
 09:24:35 4 MR. WICK: Bill Wick, Wactor & Wick,  
 09:24:37 5 for Bridgestone Americas Tire Operations, LLC.  
 09:24:44 6 MR. VAN KLEY: Jack Van Kley  
 09:24:45 7 representing Cargill, Hewitt Soap Works and  
 09:25:05 8 Newmark. Sorry.  
 09:25:05 9 MR. HARRIS: Glenn Harris, Ballard  
 09:25:10 10 Spahr, representing GlaxoSmithKline.  
 09:25:10 11 MR. LUXTON: Steve Luxton for  
 09:25:10 12 PepsiCo.  
 09:25:40 13 MR. ROMINE: Anyone else on the  
 09:25:40 14 phone? Could you go off the record for a moment?  
 09:26:00 15 THE COURT REPORTER: Sure.  
 09:26:00 16 (Thereupon, an off-the-record  
 09:26:05 17 discussion was had.)  
 09:26:08 18 BY MR. ROMINE:  
 09:26:07 19 Q. Good morning, Mr. Grillot.  
 09:26:08 20 A. Good morning.  
 09:26:09 21 Q. Do you remember last year when you  
 09:26:12 22 came to Dayton and Larry Silver asked you  
 09:26:15 23 questions about the South Dayton Dump?  
 09:26:18 24 A. Um-hum.  
 09:26:18 25 Q. Yes?

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09:26:19 1 A. Yes, I do. I'm sorry.  
 09:26:19 2 Q. Okay. So the format is going to  
 09:26:21 3 be pretty much the same. I'm going to ask you  
 09:26:24 4 questions and you will answer those questions.  
 09:26:27 5 The court reporter is taking down  
 09:26:29 6 what you say, so it's important to say yes or  
 09:26:32 7 no, rather than um-hum or uh-huh, and we're  
 09:26:36 8 going to take turns again.  
 09:26:37 9 So even if you know what I'm going  
 09:26:40 10 to ask you, wait until I'm done asking you --  
 09:26:43 11 asking the questions before you answer, and  
 09:26:45 12 then I'll wait for you to complete your answer  
 09:26:48 13 before asking you the next question, at least  
 09:26:51 14 I'll try. We have --  
 09:26:53 15 A. I was going to say, I -- I have a  
 09:26:55 16 real hard time hearing sometime, so, you  
 09:26:57 17 know --  
 09:26:58 18 Q. Gotcha.  
 09:26:58 19 A. -- the one ear over here, so --  
 09:27:00 20 Q. Okay. I'll speak up then.  
 09:27:01 21 A. No, you -- you were doing good. I  
 09:27:03 22 don't know if I can hear the other people,  
 09:27:05 23 so --  
 09:27:05 24 Q. Okay. All right. Well, that's --  
 09:27:06 25 then now everybody knows to speak up.

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09:27:08 1 A. Okay.

09:27:09 2 Q. Yeah. And it's okay to ask for

09:27:14 3 breaks. You want a bathroom break, water

09:27:14 4 break, that's fine. It's not an endurance

09:27:15 5 test.

09:27:15 6 A. Okay.

09:27:16 7 Q. So just to sort of put on the

09:27:21 8 record that you're the same person, what is

09:27:23 9 your date of birth?

09:27:24 10 A. 11-9-52.

09:27:24 11 Q. Okay. And what I'm going to do is

09:27:29 12 I'm going to show you something that was marked

09:27:31 13 as Exhibit 2 last time with Mr. Silver, and ask

09:27:37 14 you to take a look at it for a minute.

09:27:41 15 And we'll pass this around, but

09:27:44 16 for right now, I want you to just take a look

09:27:47 17 at it and see if you remember it from last

09:27:47 18 time.

09:27:49 19 A. Yes, I do.

09:27:49 20 Q. Okay. And what is it showing

09:27:51 21 there? What is Exhibit 2 showing?

09:27:52 22 A. The location of the South Dayton

09:27:53 23 Dump.

09:27:57 24 Q. And do you see some writing on

09:27:59 25 there?

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09:27:59 1 A. Yes.

09:28:00 2 Q. And do you recognize that writing

09:28:02 3 from when you were here last year with Mr.

09:28:05 4 Silver?

09:28:05 5 A. Yeah, um-hum.

09:28:06 6 Q. Okay. And does it show the --

09:28:09 7 does it show the entrances to the dump over

09:28:12 8 time and other features of the South Dayton

09:28:14 9 Dump?

09:28:14 10 A. Yes, it does.

09:28:15 11 Q. Okay. And do you remember that

09:28:17 12 from last time?

09:28:17 13 A. Yes.

09:28:18 14 Q. Great. All right. We're going to

09:28:20 15 go ahead and -- and just pass this around. We

09:28:23 16 may ask -- I may ask questions about this, I

09:28:25 17 may not, we'll see how it goes.

09:28:29 18 The other lawyers may ask

09:28:30 19 questions about it. They'll have that

09:28:32 20 opportunity if they want to.

09:28:33 21 A. Okay.

09:28:33 22 Q. One thing I wanted to ask you

09:28:43 23 about is, how has your health been over the

09:28:49 24 last couple months?

09:28:50 25 A. Not too good.

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09:28:51 1 Q. Could you explain that?

09:28:54 2 A. For the past couple years, I've

09:28:57 3 been having a hard time breathing and it's very

09:29:03 4 uncomfortable to do things, and so a couple

09:29:05 5 times I felt suffocating, so I went to the ER,

09:29:10 6 and make a long story short, I got

09:29:13 7 pancreatitis, and so I'm trying to level it

09:29:17 8 out, and with medication, it seems to be

09:29:21 9 helping, but I still have my good days and bad

09:29:24 10 days, so --

09:29:35 11 Q. I understand. So you're taking

09:29:37 12 medication now for your pancreatitis?

09:29:39 13 A. Yes.

09:29:40 14 Q. And you're going to have to take

09:29:45 15 this medication basically for the long-term

09:29:47 16 then, I take it?

09:29:48 17 A. I still need tests, but because of

09:29:48 18 not having insurance, proper health insurance,

09:29:48 19 then I got to wait for a while, so --

09:29:48 20 Q. Okay. All right. I'm not going

09:29:54 21 to go over and repeat what Mr. Silver asked you

09:30:00 22 about your background, you know, growing up and

09:30:03 23 school and jobs and all that, by I am going to

09:30:06 24 ask --

09:30:06 25 A. Silver -- I'm sorry, Mr. Silver?

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09:30:08 1 Q. Yeah, what he had asked you.

09:30:10 2 A. Is that Larry?

09:30:10 3 Q. Yeah, right.

09:30:11 4 A. Okay.

09:30:11 5 Q. So I'm not going to repeat that,

09:30:13 6 but I am going to ask you some questions about

09:30:16 7 some companies that he may have asked you

09:30:19 8 about.

09:30:19 9 A. Okay.

09:30:20 10 Q. And the first one I'm going to ask

09:30:22 11 you about is -- is A.E. Fickert and Son. Does

09:30:28 12 that -- do you recognize that name?

09:30:30 13 A. Oh, yeah.

09:30:30 14 Q. Okay. Was A.E. Fickert and Son a

09:30:34 15 customer of the South Dayton Dump?

09:30:35 16 A. Yes.

09:30:36 17 Q. And what kind of waste did A.E.

09:30:42 18 Fickert and Son bring to the dump?

09:30:43 19 A. Mostly construction debris, two by

09:30:49 20 fours, drywall, empty buckets and stuff like

09:30:53 21 that.

09:30:57 22 Q. Okay. When you say empty buckets,

09:30:59 23 what had been in the buckets?

09:30:59 24 A. Mostly like paint, drywall,

09:31:04 25 different types of cans, like turpentine, paint

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09:31:12 1 thinner and stuff like that.

09:31:14 2 Q. Okay. Anything else that you

09:31:18 3 remember?

09:31:18 4 A. Yeah, I got a job from them. I

09:31:21 5 started -- I asked questions of the guy that

09:31:25 6 drove the truck and he told me to go down and

09:31:27 7 talk to them and they hired me a few years

09:31:30 8 later, so --

09:31:30 9 Q. So you did some work for A.E.

09:31:33 10 Fickert?

09:31:33 11 A. Um-hum.

09:31:34 12 Q. Now, the waste that came from

09:31:37 13 A.E. Fickert, did they have their own trucks or

09:31:40 14 did someone else haul their waste for them?

09:31:42 15 A. They had their own trucks.

09:31:44 16 Q. They had their own trucks. And

09:31:44 17 what did they look like?

09:31:47 18 A. Most of them were red pickup

09:31:51 19 trucks. They had utility beds on them and then

09:31:54 20 the writing -- they had ladder racks and then

09:31:56 21 the writing on the door, and then on the

09:32:00 22 toolboxes it said A.E. Fickert and Son.

09:32:02 23 Q. Okay. And how old were you when

09:32:07 24 you first remember seeing these A.E. Fickert

09:32:11 25 and Son trucks bring waste to the site -- or to

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09:32:14 1 the dump, excuse me?

09:32:16 2 A. I think maybe 15, something like

09:32:18 3 that.

09:32:18 4 Q. And did they bring waste to the

09:32:27 5 site like as long as the dump was open?

09:32:29 6 A. Oh, yeah.

09:32:30 7 Q. Do you remember any of the

09:32:33 8 driver's names for A.E. Fickert?

09:32:37 9 A. No. Well, I worked with several

09:32:44 10 later on, but I don't remember their faces

09:32:48 11 and -- and their real names, so --

09:32:50 12 Q. That's fine. Just asking you what

09:32:53 13 you remember.

09:32:54 14 A. Okay.

09:32:54 15 Q. Yeah. And how often did the A.E.

09:32:58 16 Fickert trucks come to the site?

09:33:01 17 A. It depended. Sometime once a day.

09:33:06 18 Sometimes twice, you know, and then sometimes

09:33:08 19 they wouldn't show up at all for a few days,

09:33:11 20 so --

09:33:12 21 Q. Okay. Did they ever bring waste

09:33:21 22 to the dump in a truck other than a pickup

09:33:29 23 truck?

09:33:29 24 A. I think they might have had a

09:33:31 25 flatbed, but I'm not a hundred percent sure.

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09:33:34 1 so --

09:33:36 2 Q. No problem. Again, just asking

09:33:37 3 what you remember.

09:33:37 4 A. Okay.

09:33:38 5 Q. All right. I'm going to move on

09:33:41 6 now to a different company.

09:33:42 7 A. Okay.

09:33:42 8 Q. Baylock Trucking and Waste. Are

09:33:47 9 you familiar with a company called either

09:33:50 10 Baylock Trucking and Waste or Baylock

09:33:53 11 Trucking and Waste Removal?

09:33:53 12 A. Baylock (sic).

09:33:54 13 Q. Baylock?

09:33:54 14 A. Um-hum.

09:33:54 15 Q. Okay. And was Baylock a customer

09:33:57 16 of the dump?

09:33:57 17 A. Yes.

09:33:58 18 Q. Okay. And what kind of waste did

09:34:01 19 Baylock bring to South Dayton Dump?

09:34:08 20 A. I don't remember.

09:34:09 21 Q. Okay. Did they have their own

09:34:11 22 trucks?

09:34:19 23 A. I don't remember lettering, but --

09:34:24 24 on the truck, but somehow I do -- you know, I

09:34:26 25 know the name like I do my own, so I -- you

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09:34:28 1 know, I -- right now I can't remember.

09:34:30 2 Q. That's okay. But you remember

09:34:33 3 Baylock trucks coming to the site?

09:34:34 4 A. Oh, yeah.

09:34:36 5 Q. Okay. Or to the dump. And who

09:34:38 6 were their customers?

09:34:42 7 A. That, I'm not sure.

09:34:43 8 Q. Okay.

09:34:45 9 MR. HARBECK: I'm sorry. I couldn't

09:34:46 10 hear what he said.

09:34:48 11 THE WITNESS: I said I wasn't sure.

09:34:48 12 MR. HARBECK: Thank you.

09:34:57 13 BY MR. ROMINE:

09:34:57 14 Q. Do you remember any of the

09:34:58 15 drivers' names for Baylock?

09:35:01 16 A. No.

09:35:02 17 Q. Okay. Did Baylock have their own

09:35:07 18 site somewhere in Dayton?

09:35:10 19 A. Well, I'm -- I'm -- I'm having a

09:35:14 20 time because, I think that Container Service --

09:35:20 21 and I'm thinking it wasn't Waste Management,

09:35:28 22 but Container Service and another -- Container

09:35:31 23 Service, that's how I think I remember the name

09:35:34 24 Baylock.

09:35:34 25 Q. So Baylock and Container Service

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09:35:37 1 were related companies in your --  
 09:35:39 2 A. I believe so.  
 09:35:39 3 Q. Okay. And going back to an  
 09:35:42 4 earlier question, did Container Service and/or  
 09:35:47 5 Baylock have a -- their own dump somewhere in  
 09:35:49 6 the Dayton area?  
 09:35:50 7 A. Not till later on.  
 09:35:51 8 Q. Okay.  
 09:35:53 9 A. And they purchased a landfill up  
 09:35:55 10 north called, oh, Powell Road Landfill.  
 09:36:02 11 Q. Powell Road?  
 09:36:03 12 A. Yes.  
 09:36:04 13 Q. Okay. And have you been to Powell  
 09:36:04 14 Road?  
 09:36:09 15 A. I worked out there for about two  
 09:36:12 16 years.  
 09:36:12 17 Q. Okay. And tell me a little bit  
 09:36:15 18 about the Powell Road Landfill. What was that  
 09:36:20 19 like? What kind of dump was it?  
 09:36:22 20 A. It was more garbage. Waste from  
 09:36:29 21 sewage plants. Just regular garbage really,  
 09:36:36 22 and they came mostly in, what we called the big  
 09:36:39 23 containers, 44 yards and -- and bigger, and  
 09:36:42 24 then it slid out the back of the truck.  
 09:36:45 25 Q. Okay. Was it a -- was it a roll

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09:36:47 1 off or is that something different?  
 09:36:49 2 A. It's called -- yeah, it's a roll  
 09:36:51 3 off.  
 09:36:51 4 Q. Okay. And so if -- if Baylock or  
 09:36:59 5 Container Service had their own dump at Powell  
 09:37:02 6 Road, why did they bring anything to the South  
 09:37:02 7 Dayton Dump?  
 09:37:07 8 MR. HARBECK: Object to the form of  
 09:37:08 9 the question and the foundation. This is Bill  
 09:37:10 10 Harbeck.  
 09:37:10 11 BY MR. ROMINE:  
 09:37:10 12 Q. That's okay. You can answer.  
 09:37:10 13 (Thereupon, Attorney Robert H. Eddy  
 09:37:10 14 entered the deposition room.)  
 09:37:13 15 THE WITNESS: Well, at the beginning,  
 09:37:14 16 they didn't have Powell Road Landfill. I'm, you  
 09:37:20 17 know, talking like '70s, early -- or '60s and then  
 09:37:25 18 maybe, I think, early '70s, but my uncle and one  
 09:37:26 19 of the owners or the CEOs of Container Service and  
 09:37:34 20 a company called General Refuge decided that they  
 09:37:38 21 were going to build an incinerator.  
 09:37:41 22 And so they built their first one and  
 09:37:55 23 it burnt a lot of wood, and they would get the  
 09:38:00 24 pallets and stuff, and my uncle would have my  
 09:38:03 25 cousin and myself stack them up in different piles

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09:38:07 1 that were resellable (sic) so the rest of them  
 09:38:11 2 could be burnt.  
 09:38:12 3 So everybody in town knew that that  
 09:38:14 4 was the place to go.  
 09:38:14 5 BY MR. ROMINE:  
 09:38:15 6 Q. And where was this incinerator?  
 09:38:19 7 A. On South Dayton Dump.  
 09:38:19 8 Q. Okay. And so if I'm understanding  
 09:38:22 9 your testimony that -- that there was a company  
 09:38:29 10 called General Refuge?  
 09:38:30 11 A. Um-hum.  
 09:38:31 12 Q. Yes?  
 09:38:31 13 A. Yes, I'm sorry.  
 09:38:32 14 Q. Okay. That's okay. And it was  
 09:38:35 15 somehow connected to Container Service and/or  
 09:38:38 16 Baylock Trucking?  
 09:38:38 17 A. Yes, it was -- today, Waste  
 09:38:42 18 Management mostly has all of them, but there  
 09:38:44 19 were -- they did more of the suburbs,  
 09:38:49 20 Englewood, Tipp City, Troy and the suburbs,  
 09:38:53 21 Beavercreek, and -- and that was affiliated  
 09:39:00 22 with -- I just forgot the name again.  
 09:39:06 23 Q. That's okay.  
 09:39:07 24 A. Larry Brandon, Larry Brandon's  
 09:39:10 25 operation.

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09:39:10 1 Q. Okay. So, again, just trying to  
 09:39:13 2 make sure I understand you correctly, there was  
 09:39:19 3 a company called General Refuge?  
 09:39:22 4 A. That was it.  
 09:39:22 5 Q. Yeah, and Larry Brandon was  
 09:39:28 6 somehow in charge of General Refuge?  
 09:39:31 7 A. Yes.  
 09:39:31 8 Q. And he, along with one of your  
 09:39:35 9 uncles, built an incinerator on the South  
 09:39:37 10 Dayton Dump?  
 09:39:37 11 A. Well, not personally, but they --  
 09:39:39 12 they hired --  
 09:39:40 13 Q. I understand.  
 09:39:40 14 A. -- a company to -- and the first  
 09:39:42 15 one was built out of solid steel, and so that  
 09:39:48 16 didn't last, so we had -- or they had to build  
 09:39:50 17 another one out of concrete.  
 09:39:52 18 Q. When -- when was that? When was  
 09:39:54 19 the first one built?  
 09:39:56 20 A. '69, I think. 1969.  
 09:40:03 21 Q. Okay. And then you say it was  
 09:40:06 22 rebuilt at one time?  
 09:40:09 23 A. Yeah, I think in the mid '70s.  
 09:40:10 24 Q. Was it completely like destroyed  
 09:40:13 25 and then built another one or did they kind of

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09:40:15 1 like repair it?

09:40:16 2 A. Well, the steel one, because it

09:40:18 3 was -- I don't think they anticipated how much

09:40:20 4 heat, because they had blowers that would

09:40:23 5 quickly burn the wood pallets and plywood

09:40:27 6 instantly, that it started to buckle and -- but

09:40:34 7 till they had to build the concrete

09:40:37 8 incinerator, we still used pretty much till it

09:40:44 9 cracked inside of it, so -- but --

09:40:45 10 Q. Fair enough. So, again, you're

09:40:47 11 saying that a lot of wood waste would come to

09:40:50 12 the South Dayton Dump because that's where the

09:40:54 13 incinerator was?

09:40:54 14 A. Right.

09:40:55 15 Q. Okay. And Container Service and

09:40:58 16 General Refuge would sometimes bring or did

09:41:01 17 sometimes bring this wood waste to the

09:41:03 18 incinerator for burning?

09:41:05 19 MR. HARBECK: Object to the form of

09:41:06 20 the question.

09:41:07 21 BY MR. ROMINE:

09:41:07 22 Q. Go ahead.

09:41:09 23 A. If it wasn't -- it was quite often

09:41:14 24 through the day. I mean, a truck would come

09:41:17 25 about 45 minutes or so, because my cousin and I

09:41:20 1 couldn't keep up with them.

09:41:22 2 So we had to build another big

09:41:24 3 slab. I mean, they even came at nighttime and

09:41:27 4 dropped the pallets off, so --

09:41:28 5 Q. When you say they came at

09:41:31 6 nighttime, who's they?

09:41:32 7 A. The drives for Container Service.

09:41:36 8 Q. Okay.

09:41:39 9 A. And so my uncle -- there was a key

09:41:42 10 called 2246 and -- a master lock, and I think

09:41:46 11 all the drivers, everybody had a key, so --

09:41:51 12 Q. So the Container Service drivers

09:41:54 13 were able to come at night?

09:41:58 14 A. Yeah.

09:41:59 15 Q. Okay. Did anything go into the

09:42:02 16 incinerator other than wood?

09:42:02 17 A. Well, at the beginning, cardboard,

09:42:05 18 but it had destroyed itself so quickly, and

09:42:12 19 then one of -- a Container Service

09:42:16 20 representative found that they could recycle

09:42:16 21 it.

09:42:19 22 So they had a garbage truck come

09:42:23 23 over and hired two older guys and they would

09:42:27 24 put -- they would take the cardboard and then

09:42:30 25 push it onto this trash truck.

09:42:33 1 Q. And where would that trash truck

09:42:36 2 go?

09:42:36 3 A. To -- I believe it was downtown at

09:42:41 4 a recycling center. I don't know the name of

09:42:45 5 it.

09:42:45 6 Q. Okay. So cardboard would come

09:42:49 7 into the South Dayton Dump and then someone

09:42:51 8 from Container Service would take that

09:42:53 9 cardboard somewhere else?

09:42:56 10 A. Right.

09:42:57 11 MR. HARBECK: Object to the form of

09:42:59 12 the question.

09:42:59 13 BY MR. ROMINE:

09:42:59 14 Q. When you say it was your uncle

09:43:05 15 who, I guess, partnered with Larry Brandon,

09:43:11 16 which uncle was this?

09:43:12 17 A. Alcine.

09:43:14 18 Q. Okay. And do you recognize the

09:43:18 19 name Bob Aldridge?

09:43:19 20 A. Yes.

09:43:19 21 Q. And who is Bob Aldridge?

09:43:22 22 A. Bob was another gentleman that saw

09:43:27 23 the need to build containers, so he started --

09:43:33 24 where General Refuge had their garage and

09:43:37 25 started building the big containers and then

09:43:41 1 the smaller ones we see today.

09:43:44 2 And so I worked for them for about

09:43:46 3 a year painting them and sanding them down and

09:43:50 4 got inside these big things and painted Teflon

09:43:53 5 inside of them so they could slide the stuff

09:43:55 6 out.

09:43:56 7 Q. And what was Bob Aldridge's

09:43:58 8 company?

09:44:01 9 A. Container Service. Let's see,

09:44:03 10 wait. He had another name for it, I don't

09:44:09 11 remember, but it was -- it was affiliated with

09:44:10 12 Larry Brandon's Container Service.

09:44:12 13 Q. Okay. So did Bob Aldridge and

09:44:14 14 Larry Brandon work together in your mind?

09:44:17 15 A. Yeah.

09:44:17 16 Q. Okay. The wood and stuff that was

09:44:26 17 burned in the incinerator, where did that come

09:44:28 18 from?

09:44:32 19 A. Frigidaire, Delco Products, Inland

09:44:40 20 Corporation, McCall's, Dayton Tire and Rubber.

09:44:49 21 Sherwin-Williams sometimes came with pallets.

09:44:55 22 Dayton Power & Light came with a

09:44:57 23 lot of rolls that wire was rolled up in, and we

09:45:05 24 didn't really like those because they were so

09:45:08 25 hard to get your forklift, because both forks

09:45:11 1 wouldn't get into it, I remember that, because  
 09:45:13 2 we had a tractor that had forks on it and  
 09:45:16 3 that's how we put them inside there, so --  
 09:45:19 4 Q. Have you ever heard the term air  
 09:45:26 5 curtain destructor?  
 09:45:28 6 A. Air what?  
 09:45:29 7 Q. Air curtain destructor.  
 09:45:32 8 A. No.  
 09:45:33 9 Q. Okay. That's okay. So when the  
 09:45:37 10 incinerator burned the pallets, was there ash  
 09:45:41 11 then left over as a -- as a waste product of  
 09:45:43 12 the burning?  
 09:45:43 13 A. Yes.  
 09:45:44 14 Q. And what -- what happened to that  
 09:45:46 15 ash?  
 09:45:46 16 A. It would get pushed out into the  
 09:45:48 17 dump.  
 09:45:53 18 Q. Okay. Where?  
 09:45:55 19 A. We had different tiers. There was  
 09:45:57 20 like three tiers and then there was a pit at  
 09:46:01 21 the bottom. So it -- the incinerator was built  
 09:46:04 22 on the top tier and the doors for -- it was on  
 09:46:09 23 the second tier.  
 09:46:12 24 Then we'd open it up, take the  
 09:46:14 25 fork which they -- Larry Brandon had built like

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09:46:18 1 a thing that would scoop it up and then we'd  
 09:46:21 2 take it out and dump it along the side.  
 09:46:26 3 Q. All right. It sounds like  
 09:46:31 4 you're -- you're kind of saying the same thing  
 09:46:32 5 that you were telling Larry Silver in the last  
 09:46:35 6 deposition, is that correct?  
 09:46:36 7 A. Yes.  
 09:46:36 8 Q. Okay. Is there anything that you  
 09:46:38 9 remember about the incinerator ash or anything  
 09:46:42 10 like that that you didn't cover with Larry that  
 09:46:45 11 you want to tell us now?  
 09:46:48 12 A. Other than it was quite dangerous.  
 09:46:51 13 the sparks, because it was oak mostly and  
 09:46:56 14 poplar, you know, come out and burn us, and --  
 09:46:59 15 and then the nails was a big to do because we  
 09:47:04 16 would have so many flat tires.  
 09:47:08 17 We -- so they finally found out  
 09:47:09 18 that they could fill the tires up with foam and  
 09:47:13 19 then the nails wouldn't bother it anymore, or  
 09:47:18 20 we'd run it so close to a pallet, that the  
 09:47:17 21 nails would be sticking up, and then we were  
 09:47:21 22 shut down and all these trucks were coming in  
 09:47:22 23 every hour, and, you, know, so --  
 09:47:25 24 Q. So that the nails would puncture  
 09:47:27 25 the tires of the trucks?

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09:47:28 1 A. To the tractor.  
 09:47:30 2 Q. To the tractor.  
 09:47:30 3 A. Yeah.  
 09:47:31 4 Q. I see. Okay. So your equipment  
 09:47:33 5 basically?  
 09:47:33 6 A. Yeah.  
 09:47:34 7 Q. Would the nails puncture the tires  
 09:47:35 8 of any trucks coming in, any of your customers'  
 09:47:39 9 trucks?  
 09:47:39 10 A. Every now and then, but they were  
 09:47:42 11 tandem trucks, and, you know -- but it didn't  
 09:47:43 12 stop what they were doing.  
 09:47:44 13 Q. Okay. I'm going to move on now  
 09:47:49 14 from Blaylock and talk about somebody else..  
 09:47:52 15 A. Okay.  
 09:47:53 16 Q. Was there an auto salvage  
 09:47:55 17 operation near the dump?  
 09:47:56 18 A. Yeah. Dad had brought a guy up  
 09:48:01 19 from Tennessee and started what was called  
 09:48:03 20 Doyle's Auto Parts, and Doyle had taken cars  
 09:48:09 21 from the cities, Dayton, Kettering, just  
 09:48:12 22 suburbs, to salvage and sell parts.  
 09:48:17 23 Q. How did the cars get from the City  
 09:48:21 24 of Dayton and Kettering and the other towns to  
 09:48:24 25 Doyle's?

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09:48:28 1 A. Various towing companies mostly  
 09:48:31 2 that the city had hired and --  
 09:48:32 3 Q. Okay. So these were like  
 09:48:34 4 abandoned cars?  
 09:48:35 5 A. Yeah.  
 09:48:35 6 Q. Okay. And so the towing companies  
 09:48:38 7 brought these abandoned cars from the City of  
 09:48:43 8 Dayton and Kettering to Doyle's?  
 09:48:44 9 A. Right.  
 09:48:45 10 Q. Any other towns besides the City  
 09:48:49 11 of Dayton and Kettering? I think you may have  
 09:48:50 12 mentioned one that I missed.  
 09:48:53 13 A. City of Dayton, Kettering.  
 09:48:53 14 Oakwood, not very many. It wasn't called  
 09:48:57 15 Moraine back then. I think it was called  
 09:48:59 16 Moraine Township, it wasn't the City of Dayton.  
 09:49:02 17 And Miamisburg, I think, every now  
 09:49:07 18 and then, but Dayton had such a vast area.  
 09:49:11 19 that -- but like Greene County and places like  
 09:49:14 20 that, they -- they had another company --  
 09:49:19 21 Kil-Kare -- Kil-Kare Auto Parts.  
 09:49:21 22 Q. Would you say that the City of  
 09:49:23 23 Dayton had most of the cars that came to  
 09:49:25 24 Doyle's?  
 09:49:26 25 A. Right.

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09:49:26 1 Q. Okay. And what would happen to  
09:49:30 2 these cars once they were brought to Doyle's?  
09:49:32 3 A. Well, Doyle's hired me one winter  
09:49:35 4 because it was slow at the dump, and I really  
09:49:38 5 didn't like the cold, so slips would come in,  
09:49:43 6 they'd bring -- send slips in and I had to sign  
09:49:46 7 them and put those with the titles, somehow  
09:49:50 8 they got duplicate of title, they'd staple them  
09:49:54 9 together, and so I think they had to wait so  
09:49:56 10 many days and then it would be -- it was  
09:50:01 11 instantly owned by Doyle Roberson, and then --  
09:50:05 12 then he would put them in various locations and  
09:50:08 13 then they could sell the parts off of them.  
09:50:09 14 Q. Okay. So they sold parts to the  
09:50:11 15 cars?  
09:50:11 16 A. Yeah.  
09:50:13 17 Q. What about the fluids, like the  
09:50:15 18 oil and transmission fluid and stuff like  
09:50:19 19 that?  
09:50:18 20 A. Well, most -- the gas they would  
09:50:23 21 either puncture, but back then there were --  
09:50:26 22 before EPA had started putting a restriction,  
09:50:31 23 they would light them on fire and let them burn  
09:50:35 24 and -- because it was pretty cool because --  
09:50:36 25 when the gas tank blew.

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09:50:38 1 So, as a kid, I thought that was  
09:50:40 2 the neatest thing, you know, but the  
09:50:42 3 transmissions were taken out if they weren't  
09:50:45 4 sold and put in a big pile and then would drain  
09:50:47 5 the transmission fluid and go right into the  
09:50:50 6 ground.  
09:50:50 7 Q. How about the motor oil?  
09:50:52 8 A. The same.  
09:50:53 9 Q. Okay. So sometimes they would  
09:50:55 10 sell -- and, again, I'm just trying to figure  
09:50:59 11 out what happened to them.  
09:51:00 12 Sometimes maybe the motor itself  
09:51:02 13 would be sold, the engine would be sold as is  
09:51:04 14 to somebody, a customer it could be?  
09:51:06 15 A. Right.  
09:51:08 16 Q. And if it wasn't, the oil would be  
09:51:08 17 drained into the ground?  
09:51:10 18 A. Right, and then he would take it  
09:51:11 19 to a salvage yard for the steel -- metal.  
09:51:14 20 Q. Okay. And, again, would the  
09:51:16 21 transmission -- a transmission might be sold as  
09:51:19 22 is or it might not be and the transmission  
09:51:21 23 fluid would be drained into the ground?  
09:51:22 24 A. Yes.  
09:51:24 25 Q. And the -- the chassis or the --

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09:51:26 1 whatever the carcass that was left over would  
09:51:28 2 be burned?  
09:51:29 3 A. Um-hum.  
09:51:31 4 Q. That's a yes?  
09:51:32 5 A. Yes. I'm sorry.  
09:51:33 6 Q. That's okay. And how many cars  
09:51:39 7 would come in, like once a day? Once a week?  
09:51:41 8 What was the --  
09:51:44 9 A. Oh, every hour.  
09:51:44 10 Q. Every hour cars would come in?  
09:51:46 11 A. Yeah.  
09:51:47 12 Q. Was this -- and, again, going  
09:51:48 13 back, when did you start noticing these cars  
09:51:51 14 come in? Like how old were you when you saw  
09:51:54 15 this again?  
09:51:58 16 MR. MUSTO: Objection.  
09:51:59 17 BY MR. ROMINE:  
09:51:59 18 Q. Go ahead.  
09:52:01 19 A. Way back, maybe nine, ten,  
09:52:03 20 something like that.  
09:52:03 21 Q. When you were nine or ten years  
09:52:05 22 old?  
09:52:05 23 A. Yeah.  
09:52:08 24 Q. And how long did Doyle have this  
09:52:09 25 operation at the dump?

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09:52:12 1 A. Doyle had had some health issues.  
09:52:17 2 and I think -- and then he got into buying bars  
09:52:19 3 and stuff like that, and his interest kind of  
09:52:23 4 leaned more towards the bars than it did the  
09:52:25 5 auto parts, but I think -- I think I remember  
09:52:29 6 probably in the middle '80s, late '90s -- or  
09:52:38 7 late '80s. I think he did finally slow down  
09:52:38 8 and -- but I think it ended up somewhere in the  
09:52:43 9 '90s somebody else got it and --  
09:52:43 10 Q. Okay. So your memory is that  
09:52:47 11 Doyle ran the operation until mid to late '80s,  
09:52:50 12 but it slowed down at that point?  
09:52:52 13 A. Um-hum.  
09:52:52 14 Q. Yes?  
09:52:53 15 A. Yes.  
09:52:53 16 Q. Yeah. But someone else maybe  
09:52:56 17 bought it from him or took over the business?  
09:52:58 18 A. Well, I think the city just found  
09:53:02 19 another -- they -- they came out with a car  
09:53:06 20 crusher, and I remember Dad, someone approached  
09:53:12 21 him -- people were always coming over to my  
09:53:14 22 dad's house and wanting to loan money to a buy  
09:53:18 23 million dollar crusher or whatever, and I think  
09:53:21 24 they were considering getting one, but it was  
09:53:23 25 just too expensive, so -- so I think that they

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09:53:28 1 were being crushed instead of burned.  
 09:53:29 2 By then the EPA was really pretty  
 09:53:32 3 heavy on Doyle and the dump. South Dayton  
 09:53:35 4 Dump, I'm sorry.  
 09:53:38 5 Q. Okay. That's okay. And so the  
 09:53:39 6 business again slowed down sometime in the mid  
 09:53:41 7 or late '80s?  
 09:53:43 8 A. Um-hum. Yes.  
 09:53:43 9 Q. And that's when -- that's when you  
 09:53:45 10 remember the city getting a car crusher?  
 09:53:48 11 A. Well, it wasn't actually the city.  
 09:53:50 12 I think there was a company down in West  
 09:53:54 13 Carrollton, a private owner, I believe, and  
 09:53:57 14 so --  
 09:53:57 15 Q. Okay. I'm going to move on now.  
 09:54:04 16 Coca-Cola, did you ever see any Coca-Cola  
 09:54:07 17 products come to the site?  
 09:54:09 18 A. Oh, yeah.  
 09:54:10 19 Q. And tell me a little bit about  
 09:54:13 20 that. What was the kind of waste that you  
 09:54:14 21 would see?  
 09:54:16 22 A. Oh, a lot of wood crates that  
 09:54:19 23 would carry like a 24 -- let's see --  
 09:54:25 24 24 bottles, and some of them were divided for  
 09:54:29 25 the small eight ounce, and then the others were

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09:54:32 1 for like the 16 ounce, and they came in quite  
 09:54:37 2 often.  
 09:54:37 3 Q. Okay. Other than the wooden  
 09:54:40 4 cases, was there anything coming from  
 09:54:43 5 Coca-Cola?  
 09:54:43 6 A. A lot of bottles. They had -- we  
 09:54:45 7 thought they was pretty neat, because I  
 09:54:47 8 remember because they had stamped -- we started  
 09:54:49 9 collecting them, because at the bottom it would  
 09:54:51 10 say where the bottling company come in, because  
 09:54:55 11 people come and go, you get some even from as  
 09:54:59 12 far away as California, you know, so, we  
 09:55:03 13 collected state for state, you know.  
 09:55:05 14 Q. I see. And did -- did Coca-Cola  
 09:55:09 15 have their own trucks?  
 09:55:10 16 A. Yes, um-hum.  
 09:55:11 17 Q. And I'm trying to -- what was the  
 09:55:14 18 logo or emblem on the truck?  
 09:55:19 19 A. It was red and white. It said  
 09:55:24 20 Coca-Cola Bottling Company.  
 09:55:26 21 Q. And how often did these Coca-Cola  
 09:55:32 22 Bottling Company trucks come to South Dayton  
 09:55:35 23 Dump?  
 09:55:35 24 A. Maybe once a week. Maybe every  
 09:55:39 25 other week.

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09:55:40 1 Q. Okay. And was there any syrup or  
 09:55:44 2 liquid that was ever dumped at the site from  
 09:55:49 3 Coca-Cola Bottling?  
 09:55:50 4 A. Sometimes there was containers, I  
 09:55:53 5 believe, had syrup in it. I don't remember  
 09:55:56 6 what they look like, but they --  
 09:55:59 7 Q. Okay. Do you remember any of the  
 09:56:01 8 drivers?  
 09:56:02 9 A. No.  
 09:56:02 10 Q. Okay. Was the syrup or liquid --  
 09:56:06 11 could you use that for anything?  
 09:56:09 12 A. Well, we tried to take some of it.  
 09:56:12 13 We had a -- a thing you put a CO2 cartridge in  
 09:56:16 14 and use it, but it didn't taste very good, so I  
 09:56:20 15 guess that's why they got rid of it, so --  
 09:56:22 16 Q. Okay. So you tried to -- you'd  
 09:56:23 17 take the syrup and make the soda out of it --  
 09:56:25 18 A. Yeah.  
 09:56:26 19 Q. -- but it didn't work very well?  
 09:56:27 20 A. No.  
 09:56:27 21 Q. Okay. Moving on now again.  
 09:56:35 22 Earlier you had mentioned a McCall's?  
 09:56:38 23 A. Um-hum.  
 09:56:39 24 Q. Yes?  
 09:56:39 25 A. Yes. I'm sorry.

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09:56:40 1 Q. What is McCall's?  
 09:56:41 2 A. They had mostly cardboard, sheets  
 09:56:50 3 of paper, eight by whatever, eight by 16 or  
 09:56:55 4 something. Ink cartridges. A lot of like  
 09:57:05 5 lunch de -- breakfast, lunch debris, stuff like  
 09:57:08 6 that.  
 09:57:08 7 Q. Okay. So they were a customer of  
 09:57:09 8 South Dayton Dump?  
 09:57:12 9 A. Yes.  
 09:57:12 10 Q. And what kind of business was it?  
 09:57:13 11 What did they make?  
 09:57:15 12 A. They were a magazine company.  
 09:57:16 13 Q. Okay. Anything besides paper?  
 09:57:21 14 A. Wood pallets, but a lot of -- a  
 09:57:29 15 lot of paper waste.  
 09:57:30 16 Q. Any ink?  
 09:57:31 17 A. Yeah, ink.  
 09:57:32 18 Q. And how did the ink come?  
 09:57:37 19 A. It was in like tubes, because I  
 09:57:40 20 remember we -- if they dumped on our slab and  
 09:57:44 21 we didn't see it and we accidentally rolled  
 09:57:47 22 over it, that ink would go everywhere and on us  
 09:57:50 23 and so we really didn't like it too well, but  
 09:57:54 24 if it was yellow and whatever color it was, it  
 09:57:57 25 was real goeey, ooey (sic) and --

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09:57:59 1 Q. So they were different colors ink?

09:58:01 2 A. Yeah.

09:58:01 3 Q. Okay. And what did the tubes look

09:58:04 4 like? Like how big were they?

09:58:07 5 A. I don't know if you ever seen

09:58:12 6 caulking in a tube?

09:58:13 7 Q. Sure.

09:58:14 8 A. They have bigger tubes, they

09:58:15 9 were -- I think they were either that size or

09:58:17 10 bigger.

09:58:18 11 Q. Okay. So I'm going to suggest to

09:58:23 12 you, correct me if I'm wrong, maybe 18 inches

09:58:25 13 or two feet long?

09:58:29 14 MR. ANDREASEN: Objection.

09:58:36 15 THE WITNESS: I'm thinking 12 to 16

09:58:39 16 inches. About 16 to 18.

09:58:39 17 BY MR. ROMINE:

09:58:39 18 Q. Okay. And did McCall's have their

09:58:45 19 own trucks or was it hauled by somebody else?

09:58:47 20 A. Container Service, Larry Brandon,

09:58:50 21 that was one of their big people they hauled

09:58:54 22 for.

09:58:54 23 Q. Okay. And how often did the

09:58:57 24 McCall's waste come to the site?

09:59:02 25 A. A couple times a week.

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09:59:05 1 Q. Okay. Did -- was there always

09:59:08 2 like paper and ink or did the loads vary,

09:59:12 3 sometimes there was ink, sometimes there was

09:59:13 4 paper?

09:59:14 5 A. It -- it varied. That's what made

09:59:16 6 my cousin and I angry, because, you know,

09:59:18 7 you -- you had to separate the stuff that

09:59:24 8 wasn't allowed to go in the incinerator and

09:59:26 9 then -- by hand, and so it was pretty messy,

09:59:28 10 so --

09:59:28 11 Q. Okay. So the -- the waste and the

09:59:30 12 pallet could go in the incinerator, correct?

09:59:34 13 A. Well, the waste, the paper and

09:59:36 14 stuff could be collected by -- if you remember

09:59:38 15 me telling you, there was two older guys that

09:59:42 16 put it into the -- another bin. It wasn't

09:59:46 17 allowed to go, I guess, with the cardboard,

09:59:47 18 but -- and I really don't remember what they --

09:59:52 19 they done with that till later on.

09:59:56 20 Q. Okay. So -- so the pallets and

09:59:58 21 skids would go in the incinerator?

10:00:01 22 A. Right.

10:00:01 23 Q. But the ink couldn't go in the

10:00:03 24 incinerator?

10:00:03 25 A. Right.

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10:00:01 1 Q. Okay. And where would the ink go

10:00:04 2 or where did the ink go?

10:00:08 3 A. We put it into barrels and took it

10:00:13 4 down to the bottom where other liquids were

10:00:13 5 dumped.

10:00:13 6 Q. So the pit you talked about

10:00:14 7 earlier?

10:00:15 8 A. Um-hum.

10:00:18 9 Q. Yes?

10:00:18 10 A. Yes.

10:00:18 11 Q. Okay. And when do you -- when do

10:00:19 12 you first remember McCall's waste coming into

10:00:23 13 the dump?

10:00:30 14 A. Mid '60s. See, I worked at

10:00:34 15 McCall's for Larry one winter doing snow

10:00:39 16 removal and salt thing, and I think that was

10:00:44 17 '67. So mid -- mid '60s.

10:00:45 18 Q. Okay. And did McCall's bring

10:00:51 19 waste to the site -- or, excuse me. Was there

10:00:53 20 McCall's waste brought to the site throughout

10:00:56 21 the time period the dump was operating?

10:00:57 22 A. Yes, um-hum.

10:00:59 23 Q. Okay. All right. I'm going to

10:01:01 24 switch gears again. Have you heard of the

10:01:05 25 Dayton Daily News?

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10:01:06 1 A. Oh, yeah.

10:01:07 2 Q. And were they a customer of the

10:01:09 3 site?

10:01:10 4 A. That, and Journal Herald. At the

10:01:13 5 time, there was two newspapers, one in the

10:01:15 6 morning and one in the afternoon.

10:01:16 7 Q. And which was the morning?

10:01:18 8 A. The Journal Herald.

10:01:20 9 Q. Was it the same company?

10:01:22 10 A. I'm pretty sure, yeah.

10:01:24 11 Q. Okay. And so there was waste from

10:01:29 12 both the Daily News and the Journal Herald that

10:01:31 13 came to the site?

10:01:32 14 A. Yeah.

10:01:32 15 Q. To the dump?

10:01:33 16 A. Yes.

10:01:34 17 Q. Okay. And what kind of -- what

10:01:36 18 kind of waste?

10:01:37 19 A. Again, like McCall's, mostly paper

10:01:41 20 products, and not so much the ink cart -- I

10:01:49 21 don't remember too much about ink from them,

10:01:51 22 but it was mostly paper debris, shreds, like

10:01:55 23 shreds of paper, newspaper and -- because I

10:02:00 24 remember Larry at one particular point, I think

10:02:03 25 it was the latter part of the '60s, decided it

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10:02:07 1 had a use, so he started another company called  
 10:02:11 2 Dayton Fiber, and he would take the newspapers  
 10:02:13 3 over to another building that was across the  
 10:02:14 4 river, what we called Drexel area, and started  
 10:02:21 5 shredding it and putting a chemical with it and  
 10:02:24 6 making insulation.

10:02:25 7 So then he hired another couple  
 10:02:28 8 guys that had another trash truck, and that's  
 10:02:30 9 all they would put it in was newspaper.

10:02:32 10 Q. Okay. This is Larry Brandon?

10:02:34 11 A. Yes.

10:02:34 12 Q. Okay. So let's -- going back to  
 10:02:40 13 their trucks now, did they -- or, excuse me,

10:02:42 14 Did the Daily News and Journal  
 10:02:44 15 Herald have their own trucks that came to the  
 10:02:47 16 site or did they have other haulers bring their  
 10:02:50 17 waste to the site?

10:02:51 18 A. I'm pretty -- yeah. Yeah, they  
 10:02:53 19 had like white trucks, like panel trucks.

10:02:57 20 Q. And so at some point before Larry  
 10:03:03 21 Brandon started his insulation business, the  
 10:03:06 22 waste that came to the site from the Daily News  
 10:03:10 23 and the Journal Herald, would that get disposed  
 10:03:12 24 of at the dump?

10:03:13 25 A. Yeah, mostly we'd put it down at

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10:03:14 1 the bottom in the pit to absorb a lot of the  
 10:03:21 2 other products, and it would sort of dissolve,  
 10:03:25 3 like toilet paper eventually.

10:03:26 4 So it was kind of nice when he  
 10:03:28 5 started that company, because we didn't have to  
 10:03:30 6 mess with it anymore at -- at the incinerator,  
 10:03:32 7 so, you know.

10:03:34 8 Q. Okay. Now, was it like blank  
 10:03:36 9 newsprint or was it like old printed newspaper  
 10:03:40 10 that came?

10:03:40 11 A. Both.

10:03:41 12 Q. Both. Okay. And now after Larry  
 10:03:47 13 Brandon started his Dayton Fiber operation, was  
 10:03:53 14 there waste that came from the newspapers that  
 10:03:55 15 stayed at the South Dayton Dump or did it all  
 10:03:57 16 go over to Dayton Fiber?

10:03:59 17 A. Well, like I said, it -- oh, you  
 10:04:02 18 mean during the operation?

10:04:03 19 Q. Yeah.

10:04:04 20 A. Of Larry's operation?

10:04:05 21 Q. Correct.

10:04:06 22 A. Well, there'd still be pallets  
 10:04:09 23 sometimes. Sometimes there would be these  
 10:04:13 24 newspaper steel things that you put newspaper  
 10:04:17 25 in, sometimes they would come, but mostly paper

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10:04:23 1 debris.

10:04:24 2 Q. When you say the steel things,  
 10:04:26 3 like you'd go on the sidewalk and you'd put  
 10:04:27 4 your quarter in --

10:04:27 5 A. Right.

10:04:28 6 Q. -- and take out your newspaper?

10:04:30 7 A. Right.

10:04:30 8 Q. And those would sometimes be  
 10:04:34 9 disposed of at the dump?

10:04:35 10 A. Right.

10:04:35 11 Q. Okay. And, again, when do you  
 10:04:42 12 first remember that the -- the waste coming  
 10:04:46 13 from the newspapers to the dump?

10:04:53 14 A. As long as I can remember. I was  
 10:04:55 15 pretty young.

10:04:55 16 Q. And when did Larry Brandon start  
 10:04:58 17 his Dayton Fiber operation?

10:05:00 18 A. Once again, I think I said before,  
 10:05:03 19 I think late '70s -- or late '60s.

10:05:06 20 Q. Late '60s?

10:05:07 21 A. Yeah.

10:05:07 22 Q. Okay.

10:05:13 23 A. Everything was kind of really  
 10:05:16 24 jumping in the '60s. I don't know why, but it  
 10:05:17 25 was just, you know -- the '70s was more touch

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10:05:23 1 and go, and so -- but I remember the '60s being  
 10:05:27 2 a lot of -- lot of stuff came in.

10:05:30 3 Q. Good business for the dump during  
 10:05:31 4 the '60s?

10:05:32 5 A. Pardon me?

10:05:33 6 Q. Good business for the dump during  
 10:05:34 7 the '60s?

10:05:35 8 A. Yeah, um-hum.

10:05:36 9 Q. Okay. And how often did the  
 10:05:41 10 newspapers' trucks come to the dump?

10:05:46 11 A. Well, I think I said it was -- it  
 10:05:49 12 was maybe a couple times a week.

10:05:51 13 Q. Okay. How you doing so far?

10:05:54 14 A. Okay.

10:05:55 15 Q. Do you need a break?

10:05:56 16 A. No, I'm fine.

10:05:57 17 Q. Okay. Are you familiar with a  
 10:06:10 18 company called DAP, D-A-P?

10:06:12 19 A. Yeah, they made tubes of  
 10:06:19 20 different -- various things. Mostly caulking,  
 10:06:22 21 that I remember.

10:06:31 22 Q. And did DAP --

10:06:35 23 MR. COUGHLIN: Objection. Move to  
 10:06:36 24 strike as nonresponsive. That's Bill Coughlin for  
 10:06:36 25 DAP.

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10:06:32 1 BY MR. ROMINE:  
 10:06:32 2 Q. Did DAP Products come to the South  
 10:06:36 3 Dayton Dump as waste?  
 10:06:37 4 A. Yep.  
 10:06:37 5 MR. COUGHLIN: Object to form.  
 10:06:39 6 Leading.  
 10:06:39 7 BY MR. ROMINE:  
 10:06:39 8 Q. Go ahead.  
 10:06:41 9 MR. COUGHLIN: And, Dave, so I'm  
 10:06:43 10 not -- I have to do this question by question,  
 10:06:44 11 because apart from the form objection, there's  
 10:06:49 12 also an objection that emerges from the November  
 10:06:53 13 6th hearing we had, and that was, we were supposed  
 10:06:57 14 to get a synopsis so we could evaluate whether or  
 10:06:59 15 not you were going to be retreading the same  
 10:07:02 16 ground in this deposition as in the 2012  
 10:07:04 17 deposition. We didn't get that, and it also sounds  
 10:07:07 18 like you're retreading the same ground.  
 10:07:10 19 So on the basis of the directives we  
 10:07:12 20 got from the Court on November 6th, I'm going to  
 10:07:15 21 move to strike the testimony as well. I want to  
 10:07:16 22 try to have to avoid -- I'm going to try to avoid  
 10:07:18 23 objecting to each question, but without the  
 10:07:23 24 synopsis, I don't know until I hear it, and in  
 10:07:24 25 light of the question -- in light of the prior

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10:07:27 1 question to where the witness gave an answer that  
 10:07:32 2 was unresponsive, I'm just going to have to do  
 10:07:34 3 those objections.  
 10:07:35 4 MR. ROMINE: And did you object to  
 10:07:36 5 the notice of deposition by December 6th as we  
 10:07:40 6 instructed the recipients in the notice of  
 10:07:42 7 deposition?  
 10:07:43 8 MR. COUGHLIN: Yes, in fact, we did  
 10:07:44 9 in writing, along with some of the other  
 10:07:47 10 defendants, and that's why I'm preserving these  
 10:07:50 11 objections, and, in fact, in e-mails you drafted,  
 10:07:57 12 you said these were preserved, so I'm going to do  
 10:08:01 13 that.  
 10:08:01 14 MR. ROMINE: No, I mean, did you  
 10:08:03 15 object by December 6th in the revised notice of  
 10:08:06 16 deposition that was sent out, in the revised  
 10:08:07 17 notice of deposition? Did you object after the  
 10:08:11 18 revised notice of deposition was sent out?  
 10:08:12 19 MR. COUGHLIN: We objected to -- yes,  
 10:08:15 20 we preserved our objections, that's correct.  
 10:08:17 21 MR. ROMINE: No, no. Did you object  
 10:08:17 22 to the revised notice of deposition after the  
 10:08:20 23 revised notice of deposition was sent out?  
 10:08:22 24 MR. COUGHLIN: Yes, we preserved our  
 10:08:24 25 objections, and to the extent there's any doubt in

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10:08:26 1 your mind, I'm doing it now --  
 10:08:29 2 MR. ROMINE: Do you have that  
 10:08:30 3 objection in writing that you sent after the  
 10:08:31 4 revised notice of deposition was sent out? Do you  
 10:08:34 5 have it right now?  
 10:08:35 6 MR. COUGHLIN: Well, it's --  
 10:08:36 7 MR. ROMINE: Do you have it right  
 10:08:37 8 now?  
 10:08:37 9 MR. COUGHLIN: Let me answer your  
 10:08:41 10 question, I'm not the witness. I'm just making an  
 10:08:42 11 objection. I don't know if I have a copy of it,  
 10:08:44 12 but I know I have it -- I know I've seen the  
 10:08:45 13 letters. I know I have the e-mail exchanges, I  
 10:08:48 14 know you've seen them, and I'm preserving those  
 10:08:50 15 objections. If you think somehow they were  
 10:08:53 16 waived, they're not. I'm going to make the  
 10:08:54 17 objections.  
 10:08:55 18 MR. ROMINE: Do you -- did you  
 10:08:56 19 send --  
 10:08:57 20 MR. COUGHLIN: Do you have any more  
 10:08:58 21 questions? Are we going on or what?  
 10:08:59 22 MR. ROMINE: I'm asking you a  
 10:09:00 23 question. You put your objections on the record.  
 10:09:02 24 I'm asking you a question.  
 10:09:03 25 MR. COUGHLIN: Okay.

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10:09:03 1 MR. ROMINE: Did you send a written  
 10:09:04 2 objection to me after my e-mail exchange with Mr.  
 10:09:11 3 Haughey pursuant to the revised notice of  
 10:09:13 4 deposition I sent after my e-mail exchange with  
 10:09:16 5 Mr. Haughey? Did you do that?  
 10:09:17 6 MR. COUGHLIN: I don't know, but I do  
 10:09:20 7 know I'm preserving the objections as was set  
 10:09:23 8 forth in the correspondence, and I'm doing it now,  
 10:09:26 9 and I don't think there was anything that you or  
 10:09:28 10 me or anybody else could write that would alter  
 10:09:33 11 what the judge directed us to do on November 6th.  
 10:09:34 12 So I'm going to preserve those  
 10:09:36 13 objections, and I'm sorry to agitate you, but I  
 10:09:40 14 know of no other way to do it. I'm happy to be  
 10:09:41 15 educated otherwise.  
 10:09:43 16 BY MR. ROMINE:  
 10:09:46 17 Q. Let's talk about DAP. Was there  
 10:09:52 18 waste from DAP that came to the South Dayton  
 10:09:53 19 Dump?  
 10:09:53 20 A. Yes.  
 10:09:54 21 MR. COUGHLIN: Objection. Form.  
 10:09:54 22 Leading. November 6th.  
 10:09:58 23 MR. ROMINE: Do you have the  
 10:09:59 24 transcript of the judge's order on November 6th?  
 10:10:01 25 Do you have it with you right now?

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10:10:03 1 MR. COUGHLIN: Do you have any more  
 10:10:05 2 questions?  
 10:10:04 3 MR. ROMINE: Do you have it with you  
 10:10:05 4 right now?  
 10:10:06 5 MR. COUGHLIN: Do you have any more  
 10:10:06 6 questions?  
 10:10:07 7 MR. ROMINE: I'm asking you a  
 10:10:08 8 question. You're objecting on the basis of the  
 10:10:10 9 November 6th --  
 10:10:10 10 MR. COUGHLIN: I'm going to make my  
 10:10:12 11 objections. I can't help it if you weren't on the  
 10:10:12 12 phone.  
 10:10:13 13 MR. ROMINE: I was on the phone. I  
 10:10:13 14 was there.  
 10:10:13 15 (Thereupon, the court reporter  
 10:10:13 16 interrupted the proceedings.)  
 10:10:15 17 MR. HAUGHEY: Hold on. Hold on,  
 10:10:16 18 folks. We're getting nowhere with this. This is  
 10:10:21 19 Steve Haughey. Can't we just take a running or  
 10:10:24 20 continuing objection for all the grounds that  
 10:10:27 21 counsel for DAP has raised, and then let's just  
 10:10:30 22 move on?  
 10:10:30 23 I don't understand why we have to  
 10:10:31 24 continue to enter the objections and argue about  
 10:10:33 25 them. Make the continuing objection and let's

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10:10:34 1 move on and get this record done or we're not  
 10:10:37 2 going to get out of here.  
 10:10:38 3 MR. COUGHLIN: Well, Steve, there is  
 10:10:39 4 an issue of why I have to make the objections. If  
 10:10:41 5 we had a synopsis, then I'd know what your  
 10:10:43 6 questions are.  
 10:10:43 7 MR. HAUGHEY: You can do a continuing  
 10:10:45 8 objection on that grounds and then you don't have  
 10:10:47 9 to do it in every question, which obviously is  
 10:10:50 10 irritating counsel.  
 10:10:51 11 So why can't we put a continuing  
 10:10:53 12 objection on the record, Bill?  
 10:10:54 13 MR. COUGHLIN: I can't help it if it  
 10:10:56 14 irritates him, but I won't know the question until  
 10:10:58 15 I hear it, so I may not have an objection to it.  
 10:11:00 16 MR. ROMINE: I'm willing to have a  
 10:11:03 17 standing objection for you from any alleged  
 10:11:10 18 violation of what the judge said on November 6th.  
 10:11:14 19 MR. COUGHLIN: Well, thank you, I  
 10:11:15 20 appreciate that, and I will make that continuing  
 10:11:18 21 objection, but there's also the question of form.  
 10:11:21 22 You noticed this witness. You've not  
 10:11:23 23 noticed him upon cross-examination. You can't ask  
 10:11:27 24 him leading questions, you have to ask him direct  
 10:11:29 25 exam questions, and you're leading him, so I have

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10:11:32 1 to make those objections or they're waived.  
 10:11:41 2 MR. ROMINE: Did anybody bring their  
 10:11:42 3 Federal Rules of Civil Procedure?  
 10:11:45 4 MR. SHARETT Well, we don't have to  
 10:11:46 5 bring the rules. He can just ask him leading  
 10:11:48 6 questions the whole time.  
 10:11:49 7 MR. COUGHLIN: If you have the notice  
 10:11:49 8 of deposition, it does not -- it doesn't use the  
 10:11:51 9 phrase cross-examination.  
 10:11:52 10 MR. ROMINE: Does anybody have the  
 10:11:56 11 Federal Rules of Civil Procedure?  
 10:11:56 12 MR. HAUGHEY: I don't think anybody  
 10:11:59 13 does, but I -- this is Steve Haughey. I have the  
 10:12:01 14 notice and --  
 10:12:01 15 MR. ROMINE: Good.  
 10:12:02 16 MR. HAUGHEY: -- I do concur that the  
 10:12:02 17 notice does not state that it will be on  
 10:12:05 18 cross-exam nor does the subpoena, so, you know,  
 10:12:06 19 I -- and you didn't, Mr. Romine, specify at the  
 10:12:12 20 beginning whether this was going to be on cross or  
 10:12:15 21 direct. So I don't know what we're doing here,  
 10:12:17 22 and I -- like Mr. Coughlin, I would presume that  
 10:12:20 23 since it didn't say it was going to be on cross  
 10:12:22 24 and there was not a subpoena, that this is not a  
 10:12:25 25 deposition as on cross, but -- and there was no

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10:12:28 1 foundation to set it up that way.  
 10:12:33 2 MR. HARRIS: This is Glenn Harris. I  
 10:12:33 3 have two comments -- two comments from Glenn  
 10:12:36 4 Harris. Number one, I don't really care what his  
 10:12:39 5 notice said anyway. He can't change what the  
 10:12:41 6 rules are with his notice. Number two, I got a  
 10:12:43 7 rule book here if you want to know what the rule  
 10:12:45 8 says.  
 10:12:48 9 MR. ROMINE: Yeah. What does Rule  
 10:12:49 10 30(b) say?  
 10:12:53 11 MR. HARRIS: Well, it says a lot of  
 10:12:54 12 things. Are you trying to -- are you looking at  
 10:12:56 13 something in particular?  
 10:12:58 14 MR. ROMINE: Yeah, about objections.  
 10:12:59 15 MR. HARRIS: I mean, it's a -- this  
 10:13:02 16 is a three page rule. It says examination and  
 10:13:11 17 cross-examination of a deponent proceed as they  
 10:13:14 18 would at trial under the Federal Rules of  
 10:13:16 19 Evidence.  
 10:13:27 20 In other words, you can't ask leading  
 10:13:19 21 questions because he's your witness. Objections:  
 10:13:21 22 An objection at the time of the examination,  
 10:13:25 23 whether to evidence, to a party's conduct; to the  
 10:13:27 24 officer's qualifications, to the manner of taking  
 10:13:30 25 the deposition or to any other aspect of the

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10:13:33 1 deposition must be noted on the record, but the  
 10:13:36 2 examination still proceeds. The testimony is  
 10:13:38 3 taken subject to any objection.  
 10:13:40 4 An objection must be stated concisely  
 10:13:42 5 in a nonargumentative and nonsuggestive manner. A  
 10:13:45 6 person may instruct a deponent not to answer only  
 10:13:49 7 when necessary to preserve a privilege, to enforce  
 10:13:52 8 a limitation ordered by the Court or to present a  
 10:13:53 9 motion under Rule 30(d)(3). And while I'm at it,  
 10:13:53 10 I'm joining in Bill Coughlin's objection.  
 10:14:20 11 MR. HAUGHEY: This is Steve Haughey.  
 10:14:20 12 I'm also going to join the objection on behalf of  
 10:14:25 13 Flowserve, Coca-Cola, University of Dayton and  
 10:14:28 14 Standard Register, but I would offer that if  
 10:14:31 15 someone is willing to give me a continuing  
 10:14:34 16 objection on any leading questions done on direct,  
 10:14:38 17 then I'm ready to move on.  
 10:14:40 18 MR. ROMINE: I'll give you the  
 10:14:40 19 continuing objection.  
 10:14:41 20 MR. HAUGHEY: Thank you.  
 10:14:43 21 MR. HARRIS: Well, wait a minute, I'm  
 10:14:44 22 not willing to waive that. He's not supposed to  
 10:14:47 23 ask leading questions. I'm not going to just let  
 10:14:48 24 him ask leading questions just because -- you  
 10:14:48 25 know, I'll object every time if I have to.

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10:14:51 1 MR. COUGHLIN: Barb, this is Bill  
 10:14:52 2 Coughlin. I will not waive. Form. Leading.  
 10:14:55 3 MR. HAUGHEY: Okay. Hey, gentlemen,  
 10:14:58 4 I'm not waiving anything. This is -- I said as  
 10:14:59 5 long as I get a continuing objection so I don't  
 10:15:00 6 have to keep interrupting every ten seconds.  
 10:15:02 7 That's not a waiver, gentlemen, so there's nothing  
 10:15:04 8 wrong with entering --  
 9 MR. SHARETT: I guess you're just  
 10 required to ask questions in the right form.  
 11 MR. HAUGHEY: I hear you.  
 12 (Thereupon the court reporter  
 13 interrupted the proceedings.)  
 10:15:12 14 MR. SHARETT: Anthony Sharett, DP&L.  
 10:15:13 15 I just have an objection because he hasn't dealt  
 10:15:14 16 with my client yet, but the vast majority of his  
 10:15:19 17 questions have been leading, lack foundation and  
 10:15:21 18 are objectionable to form, just like 80 percent of  
 10:15:23 19 your questions. So I don't think we should be  
 10:15:25 20 waiving the fact that he should be required to ask  
 10:15:29 21 questions in the correct form. This is your  
 10:15:46 22 witness.  
 10:16:19 23 MR. McCALL: If we're not going to  
 10:16:22 24 proceed, can we go off the record?  
 10:16:32 25 MR. ROMINE: We're going to proceed

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10:16:33 1 in a minute. Could you read back the last  
 10:17:57 2 question and answer, please?  
 10:17:57 3 (Record read.)  
 10:17:57 4 BY MR. ROMINE:  
 10:18:56 5 Q. Was DAP waste brought to South  
 10:18:56 6 Dayton Dump?  
 10:18:59 7 A. Yeah.  
 10:18:59 8 MR. COUGHLIN: Objection to form.  
 10:19:00 9 Leading.  
 10:19:01 10 BY MR. ROMINE:  
 10:19:02 11 Q. And what kind of waste from DAP  
 10:19:04 12 came into the site?  
 10:19:06 13 MR. COUGHLIN: Objection to form.  
 10:19:07 14 Leading.  
 10:19:09 15 MR. HARRIS: Glenn Harris joins.  
 10:19:09 16 MR. DICKERSON: La Mirada joins.  
 10:19:14 17 THE WITNESS: What do I do?  
 10:19:14 18 BY MR. ROMINE:  
 10:19:14 19 Q. Go ahead. You can answer.  
 10:19:20 20 A. Like the plastic tubes that -- at  
 10:19:25 21 that time, I believe, they -- today I'm a  
 10:19:28 22 carpenter now, so -- but mostly like paper  
 10:19:31 23 tubes that had aluminum and like a rubber end  
 10:19:35 24 to it.  
 10:19:36 25 MR. COUGHLIN: Move to strike.

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10:19:37 1 BY MR. ROMINE:  
 10:19:37 2 Q. And what was the -- what was in  
 10:19:42 3 these tubes?  
 10:19:44 4 MR. COUGHLIN: Objection. Form.  
 10:19:46 5 Leading.  
 10:19:48 6 MR. DICKERSON: Objection.  
 10:19:49 7 THE WITNESS: I really don't remember  
 10:19:50 8 actually the product, because I wasn't a carpenter  
 10:19:53 9 at that time, but, you know, I think what really  
 10:19:57 10 strikes me is because the driver told me they  
 10:20:01 11 had -- I was -- my interest in carpentry was just  
 10:20:04 12 now building up and we were talking and they  
 10:20:08 13 said -- he said they had a display over by the  
 10:20:10 14 base where they had a bunch of windows that had  
 10:20:13 15 been old glazing cans, had metal glazing cans  
 10:20:17 16 where they had glazed windows and stuff and tested  
 10:20:20 17 the visibility -- durability of being in weather,  
 10:20:24 18 and I thought that was pretty neat, so I drove  
 10:20:26 19 over there one day to look at it.  
 10:20:28 20 MR. COUGHLIN: Move to strike.  
 10:20:30 21 BY MR. ROMINE:  
 10:20:30 22 Q. So you're saying that the waste  
 10:20:32 23 was -- some of the waste was these caulking  
 10:20:34 24 tubes?  
 10:20:34 25 A. Um-hum.

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10:20:34 1 Q. Yes?

10:20:34 2 MR. COUGHLIN: Objection to form.

10:20:34 3 THE WITNESS: Yes.

10:20:34 4 MR. COUGHLIN: Move to strike.

10:20:34 5 BY MR. ROMINE:

10:20:39 6 Q. And some of them were the glazing

10:20:40 7 cans?

10:20:40 8 A. Yes.

9 Q. Okay. And --

10 MR. COUGHLIN: Objection. Form.

11 Move to strike.

12 (Thereupon, the court reporter

13 interrupted the proceedings.)

14 BY MR. ROMINE:

15 Q. And --

10:20:50 16 MR. HARRIS: Can we -- can we, to

10:20:50 17 make this -- wait, hold on second. Could we, for

10:20:53 18 movement purposes, just have me join in on all of

10:20:53 19 Mr. Coughlin's objections so I don't have to do it

10:20:55 20 every time?

10:20:55 21 MR. DICKERSON: Same for La Mirada

10:21:00 22 Products.

10:21:00 23 MR. COUGHLIN: That's okay with me.

10:21:01 24 BY MR. ROMINE:

10:21:01 25 Q. And what was in the glazing cans?

10:21:04 1 MR. COUGHLIN: Objection. Form.

10:21:09 2 THE WITNESS: It was a gray

10:21:10 3 substance, like putty. It had oil on the top of

10:21:14 4 it, like kind of gooey.

10:21:20 5 MR. COUGHLIN: Move to strike.

10:21:20 6 BY MR. ROMINE:

10:21:22 7 Q. And what was -- what was the oil?

10:21:24 8 Like how did that get there?

10:21:24 9 MR. COUGHLIN: Objection to form.

10:21:28 10 THE WITNESS: I think -- I really

10:21:31 11 don't know, but my experience is that -- now that

10:21:34 12 I'm in the business, is that the oils rise to the

10:21:39 13 top because the other stuff is heavy.

10:21:41 14 MR. COUGHLIN: Move to strike.

10:21:42 15 BY MR. ROMINE:

10:21:43 16 Q. And where in this site were the --

10:21:47 17 we're talking about the caulking tubes now.

10:21:48 18 A. Right.

10:21:49 19 Q. Where were those disposed of?

10:21:50 20 MR. COUGHLIN: Objection to form.

10:21:52 21 THE WITNESS: It came with card -- in

10:21:53 22 cardboard boxes, a couple pallets of them. Then

10:21:56 23 we'd take it -- we'd take it on the lower tier

10:21:57 24 where we buried it, and then the wood debris we'd

10:22:04 25 take up to the incinerator.

10:22:04 1 BY MR. ROMINE:

10:22:06 2 Q. Okay.

10:22:07 3 MR. COUGHLIN: Move to strike.

10:22:08 4 BY MR. ROMINE:

10:22:08 5 Q. So the caulking tubes were -- were

10:22:12 6 buried in the -- in what you called the lower

10:22:13 7 tier?

10:22:13 8 MR. COUGHLIN: Objection to form.

10:22:15 9 THE WITNESS: It wasn't the lower.

10:22:16 10 It was the -- it was the second to the lowest.

10:22:16 11 BY MR. ROMINE:

10:22:17 12 Q. The second to the lowest tier?

10:22:18 13 A. The third tier.

10:22:18 14 Q. Okay. And you're saying --

10:22:20 15 MR. COUGHLIN: Move to strike.

10:22:20 16 (Thereupon, the court reporter

10:22:20 17 interrupted the proceedings.)

10:22:31 18 BY MR. ROMINE:

10:22:31 19 Q. And --

10:22:33 20 MR. HAUGHEY: Excuse me. Mr.

10:22:33 21 Grillot, do you understand, please pause after he

10:22:34 22 is done to see if there is an objection?

10:22:34 23 THE WITNESS: Sure.

10:22:38 24 MR. HAUGHEY: Then if there isn't

10:22:41 25 one, go ahead and answer. That way she can get it

10:22:42 1 all down without trying to figure out who's saying

10:22:47 2 what.

10:22:47 3 THE WITNESS: Sure.

10:22:47 4 MR. HAUGHEY: Okay. Thank you.

10:22:47 5 BY MR. ROMINE:

10:22:47 6 Q. So if I understand you correctly,

10:22:53 7 DAP waste came in, including pallets and

10:22:57 8 crates, if I'm understanding you correctly?

10:22:58 9 A. Yes.

10:22:58 10 MR. COUGHLIN: Objection to form.

10:23:00 11 What was the answer? I didn't hear it.

10:23:05 12 THE COURT REPORTER: Yes.

10:23:05 13 MR. COUGHLIN: Move to strike.

10:23:07 14 BY MR. ROMINE:

10:23:07 15 Q. And the crates and the pallets

10:23:11 16 went to the incinerator?

10:23:12 17 MR. COUGHLIN: Objection to form.

10:23:14 18 THE WITNESS: Did I wait long enough?

10:23:16 19 Okay. Yes.

10:23:16 20 MR. COUGHLIN: Move to strike.

10:23:18 21 BY MR. ROMINE:

10:23:18 22 Q. And the caulking went to the --

10:23:22 23 the second to the lowest tier?

10:23:23 24 MR. COUGHLIN: Objection to form.

10:23:25 25 THE WITNESS: Third -- third to the

10:23:27 1 lowest tier.  
 10:23:28 2 BY MR. ROMINE:  
 10:23:29 3 Q. Okay. Third to the lowest, second  
 10:23:30 4 from the top?  
 10:23:31 5 MR. COUGHLIN: Same objection.  
 10:23:32 6 THE WITNESS: Yeah. Let's see.  
 10:23:34 7 Yeah.  
 10:23:35 8 MR. COUGHLIN: Move to strike.  
 10:23:36 9 BY MR. ROMINE:  
 10:23:37 10 Q. And then the glazing cans, where  
 10:23:40 11 were the glazing cans disposed of?  
 10:23:41 12 MR. COUGHLIN: Objection to form.  
 10:23:43 13 THE WITNESS: The third tier.  
 10:23:44 14 BY MR. ROMINE:  
 10:23:45 15 Q. Also in the third tier or was  
 10:23:46 16 it -- or is that a different tier? Go ahead.  
 10:23:48 17 Or, I'm sorry, wait for the objection.  
 10:23:48 18 MR. COUGHLIN: Objection to form.  
 10:23:50 19 THE WITNESS: You ready? What was  
 10:23:54 20 the question again? I'm sorry.  
 10:23:54 21 BY MR. ROMINE:  
 10:23:55 22 Q. That's okay. Where were the  
 10:23:57 23 glazing cans disposed of?  
 10:24:00 24 MR. COUGHLIN: Same objection.  
 10:24:01 25 THE WITNESS: Third tier.

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10:24:02 1 MR. COUGHLIN: Move to strike.  
 10:24:02 2 BY MR. ROMINE:  
 10:24:03 3 Q. Was that different from the  
 10:24:03 4 caulking tubes?  
 10:24:04 5 A. No.  
 10:24:04 6 MR. COUGHLIN: Same objection. Move  
 10:24:06 7 to strike.  
 10:24:06 8 BY MR. ROMINE:  
 10:24:08 9 Q. Same -- same place?  
 10:24:14 10 MR. COUGHLIN: Same objection.  
 10:24:16 11 THE WITNESS: I'm -- I'm confused, so  
 10:24:16 12 I --  
 10:24:16 13 BY MR. ROMINE:  
 10:24:17 14 Q. That's okay. I'm confused, too.  
 10:24:19 15 We'll just try and take it slowly so that  
 10:24:19 16 everybody gets their chance to be heard.  
 10:24:22 17 THE WITNESS: Well, if I look at you,  
 10:24:23 18 could you -- could you nod for me that -- that  
 10:24:28 19 you're ready?  
 10:24:28 20 THE COURT REPORTER: No.  
 10:24:29 21 THE WITNESS: Okay. Don't -- I'll  
 10:24:29 22 try and figure it out. Okay. Next question,  
 10:24:30 23 please.  
 10:24:34 24 BY MR. ROMINE:  
 10:24:35 25 Q. The next question is, where were

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10:24:36 1 the glazing cans disposed of?  
 10:24:39 2 MR. COUGHLIN: Objection to form.  
 10:24:41 3 BY MR. ROMINE:  
 10:24:41 4 Q. Go ahead.  
 10:24:41 5 A. The -- with the other debris on  
 10:24:45 6 the third tier.  
 10:24:45 7 Q. Okay.  
 10:24:46 8 MR. COUGHLIN: Move to strike.  
 10:24:47 9 BY MR. ROMINE:  
 10:24:47 10 Q. With the caulking tubes?  
 10:24:49 11 A. Yes.  
 10:24:50 12 Q. Okay.  
 10:24:50 13 MR. COUGHLIN: Same objection. Same  
 10:24:52 14 motion to strike.  
 10:24:52 15 BY MR. ROMINE:  
 10:24:53 16 Q. Other than the caulking tubes, the  
 10:24:58 17 glazing cans, the pallets, was there other  
 10:25:03 18 waste from DAP that came to South Dayton Dump?  
 10:25:05 19 MR. COUGHLIN: Objection to form.  
 10:25:09 20 THE WITNESS: Not to my recollection.  
 10:25:11 21 BY MR. ROMINE:  
 10:25:11 22 Q. And when do you first remember  
 10:25:15 23 waste from DAP coming to South Dayton Dump?  
 10:25:17 24 MR. COUGHLIN: Objection to form.  
 10:25:24 25 THE WITNESS: In the '70s -- or '60s

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10:25:26 1 mostly.  
 10:25:27 2 MR. COUGHLIN: Move to strike.  
 10:25:29 3 BY MR. ROMINE:  
 10:25:29 4 Q. Okay. And did waste from DAP come  
 10:25:30 5 to the site throughout its operation?  
 10:25:34 6 MR. COUGHLIN: Objection to form.  
 10:25:38 7 THE WITNESS: Now I forgot the  
 10:25:39 8 question.  
 10:25:39 9 BY MR. ROMINE:  
 10:25:39 10 Q. Did waste come from DAP throughout  
 10:25:42 11 the time that the site was operating?  
 10:25:43 12 A. Yes.  
 10:25:44 13 MR. COUGHLIN: Same objection. Move  
 10:25:47 14 to strike.  
 10:25:47 15 BY MR. ROMINE:  
 10:25:47 16 Q. And did the waste from DAP come in  
 10:25:50 17 DAP's own trucks or was it hauled by somebody  
 10:25:53 18 else?  
 10:25:53 19 MR. COUGHLIN: Objection to form.  
 10:25:56 20 THE WITNESS: I don't remember.  
 10:25:59 21 BY MR. ROMINE:  
 10:25:59 22 Q. Okay. How frequently did you see  
 10:26:00 23 DAP waste at South Dayton Dump?  
 10:26:05 24 A. I'm really having a hard time  
 10:26:08 25 thinking right now because I feel tension, a

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10:26:10 1 lot of tension.

10:26:10 2 Q. No problem. The tension is

10:26:12 3 between me and the other lawyers, it's not

10:26:14 4 really for you.

10:26:14 5 A. Well, it's building on me, so --

10:26:16 6 Q. Okay. All right.

10:26:18 7 A. I don't remember the question

10:26:21 8 again, so --

10:26:21 9 Q. That's okay. How frequently did

10:26:24 10 you see DAP waste come to the South Dayton

10:26:24 11 Dump?

10:26:27 12 MR. COUGHLIN: Same objection.

10:26:28 13 THE WITNESS: Maybe once a month, if

10:26:31 14 that.

10:26:31 15 MR. COUGHLIN: Move to strike.

10:26:34 16 MR. ROMINE: All right. Let's take a

10:26:34 17 ten minute break.

10:26:37 18 THE WITNESS: Thanks.

10:26:37 19 (Pause in proceedings.)

10:27:08 20 MR. ROMINE: Okay. We're going to go

10:27:09 21 back on the record.

10:27:09 22 BY MR. ROMINE:

10:27:10 23 Q. So I'm going to move on now,

10:27:12 24 different subject, and ask you --

10:27:15 25 MR. COUGHLIN: I'm sorry, are we back

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10:27:16 1 on?

10:27:17 2 MR. ROMINE: Yes.

10:27:17 3 BY MR. ROMINE:

10:27:17 4 Q. Have you ever heard of a company

10:27:19 5 called Dayton Industrial Drum?

10:27:21 6 A. Yes.

10:27:21 7 Q. Okay. And was Dayton Industrial

10:27:24 8 Drum a customer of the South Dayton Dump?

10:27:28 9 A. Yes.

10:27:26 10 Q. All right. And what kind of waste

10:27:28 11 did Dayton Industrial Drum bring to the site?

10:27:32 12 A. Well, what the name says, drums,

10:27:34 13 55-gallon steel drums.

10:27:37 14 Q. And what happened to those drums

10:27:39 15 when they came to the dump?

10:27:41 16 A. It depended on how much liquid was

10:27:43 17 in it, but if full, we dropped them down to the

10:27:47 18 pit, to the very last tier that I was telling

10:27:51 19 you about, and then we'd go down and unscrew

10:27:53 20 the cap, and whatever was in it, we'd empty it

10:27:57 21 and then take them up to the top to get them

10:27:59 22 ready for the next thing that we did to them.

10:28:03 23 Q. So what happened to the empty

10:28:04 24 drums?

10:28:07 25 A. Well, I had to take a coal chisel

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10:28:11 1 and -- and tap all the way around the top, cut

10:28:15 2 the lid off, and then we would take and put

10:28:18 3 them off to the side, and then various

10:28:23 4 companies would buy them.

10:28:25 5 Mostly like construction places

10:28:30 6 and stuff, and they'd put them along the

10:28:32 7 highway, which now we have the plastic ones. A

10:28:37 8 lot of them -- people got them for trash and --

10:28:39 9 and so on and so forth.

10:28:40 10 Q. Okay. Did most of the drums have

10:28:44 11 some kind of liquid or something inside them

10:28:49 12 when they came to your -- to the South Dayton

10:28:51 13 Dump or were most of them empty?

10:28:53 14 A. I'm a -- the drum company mainly,

10:29:02 15 I think -- if I'm not mistaken, they had

10:29:06 16 another site in Beavercreek, and so I guess

10:29:11 17 what -- at that time, I guess there was a --

10:29:15 18 within areas they had -- like they just had a

10:29:20 19 creek going through it. Now, whether they got

10:29:22 20 dumped there or whether they had to bring them

10:29:24 21 over to us, because they knew they could dump

10:29:27 22 it over there, so --

10:29:29 23 Q. So would you say most of them were

10:29:32 24 empty or most of them had stuff in them when

10:29:35 25 they came to the South Dayton Dump?

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10:29:35 1 A. It was more -- had -- had more --

10:29:38 2 if not, maybe a third of it at least pretty

10:29:41 3 full.

10:29:42 4 Q. Okay. So most of them did have

10:29:44 5 some contents in the drum when they came to

10:29:46 6 your site?

10:29:46 7 A. Right.

10:29:46 8 Q. Yes?

10:29:48 9 A. Yes.

10:29:48 10 Q. Okay. When you were here with Mr.

10:29:55 11 Silver, with Larry Silver, you had mentioned a

10:29:58 12 company called the Barrel Factory?

10:40:00 13 A. Yeah, that was the Beavercreek

10:40:02 14 location.

10:40:02 15 Q. So in your mind, the Barrel

10:40:04 16 Factory and Dayton Industrial Drum are the same

10:40:07 17 company?

10:40:07 18 MR. PIERCE: Objection. Dayton

10:40:07 19 Industrial Drum.

10:40:09 20 THE WITNESS: From my recollection,

10:40:10 21 yes.

10:40:10 22 BY MR. ROMINE:

10:40:10 23 Q. Okay. And how frequently did

10:40:13 24 drums come from Dayton Industrial Drum to the

10:40:16 25 dump?

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10:40:17 1 A. Well, other companies brought  
 10:40:20 2 them, too. Frigidaire. Oh, a lot of like tool  
 10:40:30 3 and die places had like recyclable shave --  
 10:40:38 4 metal shavings in it, but how frequently?  
 10:40:43 5 Every day some came.  
 10:40:45 6 Q. Okay. I want to focus now  
 10:40:46 7 specifically on Dayton Industrial Drum and not  
 10:40:50 8 drums from Frigidaire or other places.  
 10:40:52 9 A. Okay.  
 10:40:52 10 Q. If you could focus on that, do you  
 10:40:55 11 remember how frequently they came to South  
 10:40:58 12 Dayton Dump?  
 10:40:58 13 A. Probably every -- maybe every  
 10:41:00 14 other day, if not once a week.  
 10:41:03 15 Q. And did Dayton Industrial Drum  
 10:41:08 16 have its own truck?  
 10:41:10 17 A. Yes.  
 10:41:11 18 Q. And what did that truck look like?  
 10:41:15 19 A. Kind of had -- it was white --  
 10:41:18 20 white with like black railings around it and  
 10:41:22 21 they were all sitting on that and then they'd  
 10:41:25 22 throw them off.  
 10:41:26 23 Q. Do you remember any of the --  
 10:41:27 24 either the drivers or the workers?  
 10:41:29 25 A. No, I do not.

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10:41:30 1 Q. Okay. Did it have any logo on it,  
 10:41:34 2 either Dayton Industrial Drum or Barrel  
 10:41:34 3 Factory?  
 10:41:37 4 A. I don't think so.  
 10:41:37 5 Q. And what -- when did this start?  
 10:41:41 6 Like how old were you when you first noticed  
 10:41:44 7 this Dayton Industrial Drum or Barrel Factory?  
 10:41:47 8 A. I took more notice when I  
 10:41:48 9 started -- Alcine had -- after I worked at  
 10:41:51 10 Powell Road, he had me come to his house one  
 10:41:55 11 evening and he said he'd give me double what  
 10:41:59 12 Larry Brandon was giving me if I'd run the  
 10:42:01 13 dozer for him.  
 10:42:02 14 So that summer, you know, it  
 10:42:05 15 really stuck, because they're -- when they're  
 10:42:08 16 full and you're trying to push them through fly  
 10:42:11 17 ash and -- it was really hard to get them that  
 10:42:13 18 close enough to the pit that we could drain  
 10:42:14 19 them, so it was -- that's what -- but I'm  
 10:42:18 20 almost positive it came before me.  
 10:42:19 21 Q. But when you first noticed them  
 10:42:21 22 was when you first ran the bulldozer for -- for  
 10:42:25 23 your Uncle Alcine?  
 10:42:27 24 A. Well, I -- probably 12, 13 is when  
 10:42:33 25 I started. He'd give me a quarter a drum for

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10:42:34 1 beating the paint off, so I tried to get as  
 10:42:39 2 many as I could to get a considerable amount of  
 10:42:42 3 money at the end of the day, you know, so  
 10:42:44 4 that's when I remember, but I don't remember  
 10:42:46 5 the company, I didn't pay attention.  
 10:42:46 6 Q. Right.  
 10:42:49 7 A. Sometimes I'd get bored and stop,  
 10:42:51 8 and they had like little paper inserts and had  
 10:42:54 9 the name of what was in it or -- and where it  
 10:42:57 10 came from, but I don't remember.  
 10:42:59 11 Q. Okay. Just so I understand what  
 10:43:01 12 you're saying, when you were 12 or 13, you did  
 10:43:04 13 like take the tops off the drums?  
 10:43:05 14 A. Right.  
 10:43:06 15 Q. But at that time, you don't  
 10:43:07 16 remember the Dayton Industrial Drum company, if  
 10:43:10 17 I'm understanding what you're saying?  
 10:43:11 18 A. Right.  
 10:43:12 19 Q. It wasn't until you started  
 10:43:13 20 working the bulldozer that you -- the name  
 10:43:14 21 Dayton Industrial Drum clicked in your mind as  
 10:43:16 22 where the drums -- or as having been sent from  
 10:43:18 23 Dayton Industrial Drum?  
 10:43:22 24 A. Right.  
 10:43:22 25 Q. Okay. I'm going to move on now.

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10:43:27 1 A. Okay.  
 10:43:27 2 Q. Dayton School Board. Was Dayton  
 10:43:31 3 School Board a customer of South Dayton Dump?  
 10:43:32 4 A. Yes.  
 10:43:33 5 Q. Okay. And what kind of waste did  
 10:43:36 6 Dayton School Board bring to the dump?  
 10:43:38 7 A. It was mostly furniture, some  
 10:43:42 8 pallets, some wood products, maybe doors,  
 10:43:47 9 benches, stuff like that.  
 10:43:49 10 Q. And did they have their own trucks  
 10:43:51 11 or was it hauled by somebody else?  
 10:43:53 12 A. I -- I don't know that.  
 10:43:54 13 Q. And you mentioned that it was a  
 10:43:56 14 lot of wood and -- and desks and stuff.  
 10:44:00 15 A. Yes.  
 10:44:00 16 Q. Did everything from the school  
 10:44:03 17 board go in the incinerator?  
 10:44:03 18 A. No.  
 10:44:11 19 MR. RUDLOFF: Object to the form.  
 10:44:13 20 BY MR. ROMINE:  
 10:44:13 21 Q. Okay. What -- so, okay. Let me  
 10:44:14 22 ask it this way: Did some of the stuff from  
 10:44:16 23 Dayton School Board go in the incinerator?  
 10:44:18 24 MR. RUDLOFF: Objection to form.  
 10:44:21 25 THE WITNESS: Yes, some of it.

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10:44:25 1 MR. RUDLOFF: Move to strike.  
 10:44:34 2 BY MR. ROMINE:  
 10:44:34 3 Q. And what waste from the Dayton  
 10:44:38 4 School Board went into the incinerator?  
 10:44:38 5 A. Well, the pallets. We weren't  
 10:44:38 6 allowed to put the doors in because they would  
 10:44:38 7 have handles and hinges on them, so we had to  
 10:44:38 8 either take that off and throw them in there or  
 10:44:40 9 take it down to the third pier where the  
 10:44:42 10 trash and the other garbage went.  
 10:44:45 11 Q. Okay. So it sounds like what  
 10:44:48 12 you're saying is if a door came in from the  
 10:44:51 13 Dayton School Board, you would either throw it  
 10:44:54 14 as is into the third tier --  
 10:44:58 15 A. (Nodding head up and down.)  
 10:44:58 16 Q. Yes?  
 10:44:58 17 A. Yes.  
 10:45:00 18 Q. -- or you would take the knob and  
 10:45:02 19 the hinges off and that would be in a form that  
 10:45:04 20 you could put in the incinerator?  
 10:45:05 21 A. Correct.  
 10:45:05 22 Q. Is there any waste from the Dayton  
 10:45:09 23 School Board that you remember coming to the  
 10:45:11 24 South Dayton Dump that you haven't just told me  
 10:45:13 25 about?

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10:45:14 1 A. Sometimes they'd have bags of just  
 10:45:22 2 paper debris, you know, but not very often.  
 10:45:24 3 Q. Okay. And how would that be  
 10:45:28 4 disposed of?  
 10:45:28 5 A. Down to the third tier.  
 10:45:31 6 Q. Again, when do you first remember  
 10:45:37 7 waste coming to the South Dayton Dump from the  
 10:45:39 8 School Board?  
 10:45:40 9 A. Actually, I was pretty young,  
 10:45:43 10 because all my cousins and relatives, we all  
 10:45:47 11 got desks that we took home, and so we thought  
 10:45:51 12 it was pretty cool we had our own desk at home,  
 10:45:54 13 and from what I remember, it had like -- I  
 10:45:56 14 think like a little metal thing on a leg or on  
 10:45:58 15 the desk itself that said Dayton School Board.  
 10:46:03 16 Q. Okay. And did the waste from the  
 10:46:07 17 Dayton School Board come throughout the time  
 10:46:09 18 that the dump was in operation?  
 10:46:12 19 MR. RUDLOFF: Objection to form.  
 10:46:13 20 THE WITNESS: The question again?  
 10:46:14 21 BY MR. ROMINE:  
 10:46:14 22 Q. Sure. Did the waste from the  
 10:46:17 23 Dayton School Board come throughout the time  
 10:46:19 24 that the dump was operating or did it end?  
 10:46:22 25 MR. RUDLOFF: Same objection.

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10:46:22 1 THE WITNESS: I don't know the latter  
 10:46:25 2 part, but during the '60s.  
 10:46:26 3 BY MR. ROMINE:  
 10:46:26 4 Q. Okay. Do you remember --  
 10:46:27 5 A. But they didn't come that often.  
 10:46:29 6 I mean, maybe twice a summer maybe, you know.  
 10:46:34 7 Q. Okay. It was usually during the  
 10:46:37 8 summer?  
 10:46:38 9 A. Mostly.  
 10:46:41 10 Q. Were there -- was there waste from  
 10:46:43 11 other towns or cities, school boards other than  
 10:46:47 12 the Dayton School Board?  
 10:46:53 13 A. I don't know.  
 10:46:54 14 Q. Moving on now, a different topic.  
 10:46:59 15 MR. HARBECK: I'm sorry, I didn't  
 10:47:00 16 hear his answer.  
 10:47:00 17 THE WITNESS: I don't know.  
 10:47:00 18 MR. HARBECK: Okay. Thank you.  
 10:47:04 19 BY MR. ROMINE:  
 10:47:04 20 Q. Duriron Corporation, are you  
 10:47:06 21 familiar with that name?  
 10:47:07 22 A. Yes.  
 10:47:07 23 Q. Was Duriron Corporation a customer  
 10:47:11 24 of the South Dayton Dump?  
 10:47:11 25 A. Oh, yeah.

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10:47:12 1 Q. And what kind of waste did Duriron  
 10:47:15 2 Corporation bring?  
 10:47:17 3 A. A lot of -- like I -- like I  
 10:47:20 4 mentioned with Larry, they came with hot loads.  
 10:47:25 5 They had one -- like I mentioned before, it  
 10:47:28 6 looked like the Apollo spacecraft, it was in a  
 10:47:32 7 cone shape upsidedown, and they would come in  
 10:47:35 8 steaming, even in the summertime you could  
 10:47:37 9 almost -- you could feel the heat come in, and  
 10:47:40 10 we'd -- it would have steel things sticking out  
 10:47:44 11 of it, so we had to take them down to the pit  
 10:47:48 12 and we dumped them in there, because the liquid  
 10:47:52 13 that was in the pit would cool them off pretty  
 10:47:55 14 quick, because we'd have a lot of hot spots  
 10:47:58 15 that might catch on fire, so we had to be real  
 10:48:01 16 careful it didn't catch some of the liquids  
 10:48:04 17 that were flammable, so -- but sometimes it  
 10:48:05 18 would and it would catch the whole pit on fire,  
 10:48:09 19 so -- and then that's mainly what I remember,  
 10:48:13 20 but they -- other things, they'd come on the  
 10:48:17 21 same type of truck, but it was a Dumpster and  
 10:48:20 22 it had a lot of liquid in it and it would  
 10:48:23 23 splash all over, even coming down the street  
 10:48:25 24 and into the entrance of the dump in front of  
 10:48:28 25 the office, and so it made quite a mess, so I

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10:48:31 1 remember that.

10:48:31 2 Q. What kind of liquid was it?

10:48:34 3 A. It was a oily substance. I don't

10:48:37 4 know.

10:48:37 5 Q. Going back to the first thing you

10:48:38 6 mentioned, the hot material?

10:48:40 7 A. Um-hum.

10:48:41 8 Q. Yes?

10:48:41 9 A. Yes.

10:48:42 10 Q. How big was it?

10:48:45 11 A. Like I mentioned, it was pretty

10:48:47 12 close to the --

10:48:47 13 Q. So it was almost what you --

10:48:48 14 A. -- capsule. Yeah, I mean, it was

10:48:50 15 pretty huge.

10:48:51 16 Q. Okay. Like similar in size to

10:48:52 17 what you would imagine the Apollo space capsule

10:48:53 18 was like?

10:48:54 19 A. Well, I had been to Wright-Patt

10:48:57 20 and I got in one of them, yeah.

10:48:59 21 Q. And how often did these hot things

10:49:04 22 come from Duriron?

10:49:06 23 A. If not twice a day, maybe three

10:49:08 24 times a day.

10:49:10 25 Q. All right. And how about -- you

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10:49:13 1 mentioned there was also a liquid. Did the

10:49:14 2 liquid come with the same frequency or was

10:49:17 3 that --

10:49:17 4 A. They were about the same.

10:49:18 5 Q. And it was always put into the

10:49:20 6 pit?

10:49:20 7 A. Right.

10:49:21 8 Q. Did they have their own trucks?

10:49:23 9 A. Yes. I don't know if they were

10:49:27 10 leased or not, but I know they were pretty beat

10:49:28 11 up and old looking and --

10:49:30 12 Q. I see. But the trucks, in your

10:49:32 13 mind, were operated by Duriron?

10:49:34 14 MR. HAUGHEY: Objection. Leading.

10:49:37 15 THE WITNESS: Yes.

10:49:38 16 BY MR. ROMINE:

10:49:38 17 Q. Do you remember any of the

10:49:39 18 drivers?

10:49:40 19 A. No.

10:49:41 20 Q. And when do you first remember the

10:49:45 21 material coming from Duriron?

10:49:49 22 A. Again, in -- you got to understand

10:49:52 23 being young, the dump was like Kings Island or

10:49:57 24 a amusement park to us kids, because we'd go

10:49:59 25 down there and play and throw these tubes at

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10:50:03 1 light fixtures, and those things would still be

10:50:05 2 hot and you could put something on it and it

10:50:07 3 would smoke, and we thought it was cool by

10:50:10 4 putting stuff on it, and so I was probably

10:50:13 5 eight or nine maybe.

10:50:14 6 Q. I'm just asking you to do the best

10:50:16 7 with your memory you can.

10:50:17 8 A. Yeah.

10:50:18 9 Q. I -- yeah. Okay. And did waste

10:50:25 10 from Duriron come throughout the '60s and '70s?

10:50:29 11 MR. HAUGHEY: Objection. Leading.

10:50:32 12 THE WITNESS: Yes.

10:50:33 13 BY MR. ROMINE:

10:50:33 14 Q. Okay. Move on -- moving on now to

10:50:39 15 Franklin Iron and Metal. Have you heard that

10:50:42 16 name before?

10:50:43 17 A. Yes.

10:50:43 18 Q. And was Franklin Iron and Metal a

10:50:45 19 customer of the South Dayton Dump?

10:50:46 20 A. Yes.

10:50:47 21 Q. And what kind of waste did

10:50:48 22 Franklin Iron and Metal bring?

10:50:51 23 A. Well, mostly from Franklin, they

10:50:53 24 came and picked up sometimes what my uncle --

10:51:00 25 my second uncle that ran the office would break

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10:51:03 1 up motors and stuff, get the copper and brass

10:51:06 2 and all and put it in drums, and I remember

10:51:08 3 sometimes they'd come to pick those up, but

10:51:12 4 then they would drop some things off, and it

10:51:17 5 was pallets, stuff like that, wood products.

10:51:19 6 Q. Was that Kenny?

10:51:19 7 A. Pardon me?

10:51:21 8 Q. Was that your Uncle Kenny?

10:51:22 9 A. Yeah. Uncle Kenny, yeah.

10:51:24 10 Q. Yeah. So Franklin Iron and Metal

10:51:27 11 came and they actually picked up stuff from the

10:51:29 12 dump?

10:51:30 13 A. Right.

10:51:30 14 Q. Then used it for whatever they

10:51:30 15 used it for?

10:51:33 16 A. Well, if we had -- from General

10:51:39 17 Motors and Delco Products and stuff like that,

10:51:41 18 they'd bring whole truckloads of -- I think

10:51:45 19 they were called brakes -- brake things that

10:51:47 20 you put your liquid in to stop a car, and

10:51:50 21 they'd come, big truckloads of them.

10:51:52 22 So I had to take the rubber caps

10:51:55 23 off of them and throw them into the -- a

10:52:00 24 canister, a container, like I told you, the --

10:52:06 25 Ed Aldridge built, and fill it up and then

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10:52:08 1 they'd come and take -- I'm pretty sure they  
 10:52:11 2 were their containers.  
 10:52:12 3 Q. Okay. And going back to the waste  
 10:52:14 4 that Franklin Iron and Metal brought to the  
 10:52:17 5 site, you said it was pallets?  
 10:52:18 6 A. Mostly, like pallets, broken up  
 10:52:21 7 drums, you know, of that nature.  
 10:52:25 8 Q. Did the pallets go into the  
 10:52:28 9 incinerator?  
 10:52:28 10 A. Yes.  
 10:52:29 11 Q. How about the drums?  
 10:52:31 12 A. Most of theirs weren't usable  
 10:52:34 13 because they were pretty crushed up, so we'd  
 10:52:37 14 just take them down to the third tier and dump  
 10:52:40 15 them with the other stuff.  
 10:52:41 16 Q. And, again, going back, do you  
 10:52:43 17 remember the first time you saw Franklin Iron  
 10:52:46 18 and Metal bring waste to the site or to the  
 10:52:49 19 dump?  
 10:52:51 20 A. You want to know an age or --  
 10:52:54 21 Q. Either age or a year.  
 10:52:55 22 A. Middle '60s.  
 10:52:56 23 Q. Middle '60s. Okay. And how long  
 10:52:58 24 did that continue?  
 10:53:01 25 A. Throughout the time that I worked

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10:53:02 1 on the dump or was going down to get -- you  
 10:53:06 2 know, we'd go down, as we were younger, to pick  
 10:53:11 3 stuff up, fans.  
 10:53:11 4 I was into like electronic stuff,  
 10:53:16 5 so I'd pick up radios and TVs and take them  
 10:53:17 6 home and take the tubes and make the TVs work,  
 10:53:19 7 and so I'd see the trucks come in when I was  
 10:53:22 8 down there sorting through the trash piles and  
 10:53:28 9 stuff, so --  
 10:53:28 10 Q. Okay. So would you say throughout  
 10:53:28 11 the '60s and '70s?  
 10:53:29 12 A. Um-hum.  
 10:53:29 13 Q. Yes?  
 10:53:30 14 A. Yes.  
 10:53:31 15 Q. Okay. And how frequently -- not  
 10:53:38 16 picking up, but bringing waste in, how  
 10:53:38 17 frequently did Franklin Iron and Metal do that?  
 10:53:41 18 A. Once a month maybe.  
 10:53:42 19 Q. Okay.  
 10:53:44 20 MR. COUGHLIN: I'm sorry, I did not  
 10:53:44 21 hear. What was the answer?  
 10:53:44 22 THE COURT REPORTER: Once a month  
 10:53:44 23 maybe.  
 10:53:44 24 BY MR. ROMINE:  
 10:53:51 25 Q. All right. Another customer -- or

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10:53:53 1 excuse me. Another company I'm going to ask  
 10:53:55 2 you about, Harris Seybold, do you remember that  
 10:53:58 3 name?  
 10:53:59 4 A. Please?  
 10:54:00 5 Q. Harris Seybold?  
 10:54:01 6 A. No, I don't.  
 10:54:02 7 Q. Okay. Hewitt Soap Company?  
 10:54:06 8 A. Yes.  
 10:54:07 9 Q. Okay. Was Hewitt Soap Company a  
 10:54:10 10 customer of the South Dayton Dump?  
 10:54:12 11 A. Yeah.  
 10:54:13 12 Q. And what kind of waste did Hewitt  
 10:54:16 13 Soap Company bring to the site?  
 10:54:17 14 A. Containers that had soap, liquid  
 10:54:23 15 in it, to the things that you pull like towels  
 10:54:31 16 down out of, but mostly soap products, because  
 10:54:37 17 we took them home and used them, so it was a --  
 10:54:39 18 you know, hope they weren't bad, but --  
 10:54:43 19 Q. Right. And did they bring their  
 10:54:46 20 own -- did they have their own trucks?  
 10:54:48 21 A. That, I don't know.  
 10:54:50 22 Q. Okay. And how often did you see  
 10:54:53 23 waste come from the Hewitt Soap Company to the  
 10:54:55 24 South Dayton Dump?  
 10:54:56 25 A. Then, again; probably once a

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10:55:00 1 month. It wasn't very often.  
 10:55:03 2 Q. So you mentioned the soap?  
 10:55:05 3 A. Yeah.  
 10:55:05 4 Q. And what kind of container did the  
 10:55:09 5 soap come in?  
 10:55:12 6 A. It looked like gallon cans that  
 10:55:14 7 had the thing you push down on it, soap bars,  
 10:55:18 8 and plus the liquid. We had a lot of different  
 10:55:23 9 types of fancy soap bars and stuff.  
 10:55:29 10 Q. Did you bring that stuff home with  
 10:55:32 11 you all the time or was there some soap left at  
 10:55:35 12 the South Dayton Dump?  
 10:55:37 13 A. Well, you can only bring home so  
 10:55:40 14 much, so -- there was quite a bit of it, you  
 10:55:40 15 know.  
 10:55:42 16 Q. So there was some soap left at the  
 10:55:45 17 South Dayton Dump --  
 10:55:48 18 A. Yes.  
 10:55:48 19 Q. -- for disposal?  
 10:55:48 20 A. Yes.  
 10:55:47 21 Q. And where did that go?  
 10:55:49 22 MR. VAN KLEY: Objection to form.  
 10:55:54 23 Objection to form. This is Jack Van Kley.  
 10:55:55 24 BY MR. ROMINE:  
 10:55:55 25 Q. So there was some soap left at the

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10:55:58 1 site for disposal?

10:55:59 2 A. Yes.

10:56:00 3 Q. How about the containers of the

10:56:04 4 soap, you mentioned there was like a gallon

10:56:09 5 container.

10:56:09 6 A. Right.

10:56:09 7 Q. Did those sometimes get left at

10:56:09 8 the dump?

10:56:14 9 A. Yeah, we'd put them on the third

10:56:18 10 tier, because after a while, you just got tired

10:56:18 11 of messing with them, you know, so --

10:56:19 12 Q. Okay. And you mentioned there

10:56:22 13 were towel dispensers?

10:56:23 14 A. Right.

10:56:23 15 Q. Were those paper towel dispensers

10:56:25 16 or the cloth towel dispensers?

10:56:27 17 A. There weren't many -- there

10:56:29 18 weren't very many of them, but -- and I do

10:56:31 19 remember, I think they were the cloth type.

10:56:33 20 Q. Yeah. And where did those get

10:56:35 21 disposed of?

10:56:35 22 A. In the pile we had for metal that

10:56:41 23 Franklin Iron and Steel would pick up

10:56:42 24 Q. Okay. So Franklin Iron and Steel

10:56:43 25 picked up the metal --

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10:56:45 1 A. Right.

10:56:45 2 Q. -- dispensers?

10:56:46 3 A. Um-hum.

10:56:47 4 Q. Were there any dispensers that

10:56:48 5 were left on -- at the dump that Franklin Iron

10:56:51 6 and Metal didn't pick up?

10:56:52 7 A. Well, on the second tier, we put

10:56:53 8 material that could be burned. They would go

10:57:00 9 along on the edge of the tier until it got real

10:57:06 10 high, and then Uncle Alcine would come light it

10:57:13 11 and burn everything, so -- and they would go

10:57:14 12 back with mag -- they had a big crane with

10:57:17 13 magnets and they'd pick the stuff up and then

10:57:18 14 put it on Franklin's trucks.

10:57:20 15 Q. Okay.

10:57:21 16 A. Then when we started getting more

10:57:24 17 Dumpsters -- we had a Dumpster set from Larry

10:57:27 18 alongside at the bottom, that way we could just

10:57:31 19 toss -- toss stuff in, so --

10:57:32 20 Q. So at some point you're saying

10:57:35 21 Larry -- is Larry Brandon?

10:57:38 22 A. Yes.

10:57:38 23 Q. So at some point, Larry Brandon

10:57:40 24 put a Dumpster at the site and --

10:57:40 25 A. Right.

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10:57:43 1 Q. -- and the purpose for that was to

10:57:44 2 collect metal?

10:57:50 3 MR. HARBECK: Object to the form.

10:57:51 4 THE WITNESS: Yes.

10:57:51 5 BY MR. ROMINE:

10:57:51 6 Q. When was that?

10:57:54 7 A. Pardon me?

10:57:55 8 Q. When was that? When did Larry

10:57:58 9 Brandon put the Dumpster in for the metal?

10:58:00 10 MR. HARBECK: Same objection.

10:58:01 11 THE WITNESS: Well, their operation,

10:58:03 12 I think, started in the '60s, so I -- I think it

10:58:09 13 was mid '60s.

10:58:11 14 BY MR. ROMINE:

10:58:12 15 Q. Okay. How you doing?

10:58:16 16 A. Good.

10:58:17 17 Q. Okay. Moving on now.

10:58:23 18 Kimberly-Clark Corporation, do you remember

10:58:24 19 that name?

10:58:29 20 A. I know it, but I don't know how

10:58:33 21 right now.

10:58:33 22 Q. Okay. Do you remember, was

10:58:40 23 Kimberly-Clark a customer of the South Dayton

10:58:45 24 Dump?

10:58:49 25 A. Honestly at this point, no.

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10:58:53 1 Q. Moving on then. L.M. Berry and

10:58:58 2 Company --

10:58:58 3 A. Yeah.

10:58:59 4 Q. -- was -- do you remember the L.M.

10:58:59 5 Berry and Company?

10:59:03 6 A. Yes.

10:59:03 7 Q. And was L.M. Berry a customer of

10:59:03 8 the site?

10:59:07 9 A. Yes.

10:59:07 10 Q. A customer of the dump? Excuse

10:59:09 11 me. And what waste did L.M. Berry bring to the

10:59:09 12 dump?

10:59:13 13 A. Lots of phone books.

10:59:14 14 Q. And how frequently did this

10:59:14 15 happen?

10:59:18 16 A. Mostly in the spring, I remember.

10:59:25 17 March, April, I think.

10:59:26 18 Q. Okay. So this was like an annual

10:59:28 19 occurrence when the new phone books came out?

10:59:30 20 A. Yeah.

10:59:31 21 Q. The old phone books would be

10:59:33 22 disposed of?

10:59:34 23 A. Yeah, and that's where Larry had

10:59:37 24 taken the two old gentlemen and threw them in

10:59:39 25 that big thing.

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10:59:41 1 Q. Okay. So when you're talking  
 10:59:44 2 about the two old gentlemen, just so I'm  
 10:59:46 3 remembering this correctly, at some point Larry  
 10:59:52 4 Brandon started some kind of business that made  
 10:59:56 5 like insulation out of waste paper?  
 10:59:58 6 A. Right, Dayton Fiber.  
 10:59:59 7 Q. Okay. Dayton Fiber. And one of  
 11:00:02 8 the things that he used was the phone books  
 11:00:04 9 from L.M. Berry and Company?  
 11:00:06 10 A. Yes, um-hum.  
 11:00:07 11 Q. Okay. Was there a time before  
 11:00:11 12 Dayton Fiber got started when the phone books  
 11:00:13 13 from L.M. Berry and Company would be disposed  
 11:00:15 14 of at the site?  
 11:00:18 15 A. Yes.  
 11:00:19 16 Q. Okay. And where were they  
 11:00:20 17 disposed of at the site?  
 11:00:22 18 A. In the second tier where the  
 11:00:23 19 burnable --  
 11:00:25 20 Q. Okay. And -- and so it sounds  
 11:00:28 21 like they were burned at some point?  
 11:00:30 22 A. Yeah.  
 11:00:31 23 Q. Okay. Any waste other than the  
 11:00:32 24 phone books from L.M. Berry and Company?  
 11:00:34 25 A. Some skids, but mostly phone

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11:00:40 1 books.  
 11:00:40 2 Q. And the skids were wood?  
 11:00:42 3 A. Yeah, um-hum.  
 11:00:43 4 Q. And were those burned in the  
 11:00:44 5 incinerator?  
 11:00:47 6 A. Well, Larry had another friend of  
 11:00:52 7 his, they started what was called Skid Row, and  
 11:00:58 8 Dad gave them a part of the dump, and there  
 11:01:01 9 were skids like 42 by 42. If they were in good  
 11:01:05 10 shape, then they were put to be sent over to  
 11:01:08 11 Skid Row.  
 11:01:08 12 And so a lot of places like L.M.  
 11:01:14 13 Berry, Hewitt Soap, those weren't beat up very  
 11:01:18 14 bad, so they would be sent over to Skid Row.  
 11:01:21 15 Q. I remember reading from what you  
 11:01:23 16 had told Larry the last time, you did mention  
 11:01:25 17 Skid Row before, so I'm not going to go into  
 11:01:28 18 that in a whole lot of detail, but focusing now  
 11:01:30 19 on L.M. Berry, they sent waste phone books,  
 11:01:34 20 yes, and some skids?  
 11:01:36 21 A. Yeah.  
 11:01:37 22 Q. Okay. And some skids were  
 11:01:40 23 repaired?  
 11:01:42 24 A. Yes, um-hum.  
 11:01:42 25 Q. But some skids were not repaired?

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11:01:45 1 A. Well, either they were in good  
 11:01:45 2 shape or they had to be repaired.  
 11:01:48 3 Q. Oh, okay. I see. So they were  
 11:01:50 4 either -- they were all used again?  
 11:01:53 5 A. Well, at the beginning before Skid  
 11:01:56 6 Row really got going, the bad ones would get  
 11:02:00 7 thrown in the incinerator, and then he bought  
 11:02:03 8 equipment, air compressors and some type of  
 11:02:06 9 gun, and they would take them over there and  
 11:02:07 10 repair them.  
 11:02:09 11 Q. So --  
 11:02:10 12 A. And that was kind of a relief  
 11:02:13 13 because we didn't have to mess with them, you  
 11:02:14 14 know, so --  
 11:02:15 15 Q. I see. So at some point towards  
 11:02:16 16 the beginning, the -- the skids that couldn't  
 11:02:18 17 be repaired would be put in the incinerator?  
 11:02:21 18 A. Yeah.  
 11:02:22 19 Q. But then at some point, was -- it  
 11:02:28 20 was Larry would figure out a way to repair  
 11:02:30 21 them?  
 11:02:30 22 A. Yeah.  
 11:02:30 23 Q. With Skid Row?  
 11:02:32 24 A. (Witness nodding head up and  
 11:02:32 25 down.)

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11:02:32 1 Q. And I'm sorry if I'm repeating  
 11:02:34 2 myself, but when did Skid Row get started?  
 11:02:38 3 A. Very late '60s. Probably '69.  
 11:02:42 4 Q. Okay. Did L.M. Berry have their  
 11:02:49 5 own truck or were they brought to the dump by  
 11:02:51 6 somebody else?  
 11:02:52 7 A. I think they were white trucks,  
 11:02:57 8 and I think there was a phone book and it  
 11:03:00 9 said -- I don't think it said L.M. Berry, I  
 11:03:03 10 can't -- it said something else.  
 11:03:04 11 Q. Okay. So how do you know --  
 11:03:09 12 A. I can't remember.  
 11:03:09 13 Q. -- it was L.M. Berry?  
 11:03:10 14 A. Pardon me?  
 11:03:10 15 Q. How do you know it was L.M. Berry  
 11:03:13 16 that brought the phone books?  
 11:03:14 17 A. Well, through talk, you know,  
 11:03:21 18 but --  
 11:03:22 19 MR. COLLIER: Objection. Move to  
 11:03:22 20 strike.  
 11:03:24 21 THE WITNESS: -- then their operation  
 11:03:24 22 wasn't very far away. It was on, I think,  
 11:03:26 23 Kettering Boulevard, so we knew where the building  
 11:03:29 24 was.  
 11:03:34 25 MR. COLLIER: Orla Collier on behalf

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11:03:35 1 of L.M. Berry. Object to the question. Move to  
 11:03:37 2 strike the answer.  
 11:03:38 3 BY MR. ROMINE:  
 11:03:38 4 Q. So you saw phone books come to the  
 11:03:38 5 site?  
 11:03:43 6 A. Um-hum.  
 11:03:43 7 Q. Yes?  
 11:03:44 8 A. Yes.  
 11:03:44 9 Q. And the truck had some kind of  
 11:03:49 10 Yellow Pages or phone book on the truck?  
 11:03:51 11 A. On the doors, yeah.  
 11:03:52 12 Q. But it didn't say L.M. Berry or  
 11:03:58 13 did it?  
 11:03:58 14 A. I don't remember.  
 11:03:58 15 Q. Okay. But you had some kind of  
 11:03:58 16 understanding that these waste phone books were  
 11:04:01 17 from L.M. Berry?  
 11:04:01 18 A. Right.  
 11:04:01 19 MR. COLLIER: Object. Move to  
 11:04:01 20 strike.  
 11:04:04 21 BY MR. ROMINE:  
 11:04:04 22 Q. And do you have any specific  
 11:04:04 23 recollection as to where your understanding  
 11:04:07 24 came from?  
 11:04:07 25 A. No.

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11:04:09 1 Q. Do you remember any of the drivers  
 11:04:14 2 of these trucks?  
 11:04:15 3 A. No.  
 11:04:15 4 Q. Okay. All right. We're going to  
 11:04:23 5 move on now. I'm going to -- are you familiar  
 11:04:26 6 with a company called Van Dyne-Crotty?  
 11:04:29 7 A. Yes.  
 11:04:30 8 Q. Was Van Dyne-Crotty a customer of  
 11:04:32 9 the South Dayton Dump?  
 11:04:33 10 A. Yes.  
 11:04:34 11 Q. And what kind of waste came from  
 11:04:36 12 the South Dayton Dump from Van Dyne-Crotty?  
 11:04:39 13 A. Uniforms. Those paper things. A  
 11:04:47 14 lot of like paper dispensers. Sometime we'd  
 11:04:51 15 get a case that had either got wet or damaged  
 11:04:58 16 or something with the paper towels that were  
 11:04:59 17 in -- inside the big boxes. Janitorial  
 11:05:05 18 products.  
 11:05:09 19 Q. And one of the things you  
 11:05:09 20 mentioned was paper things, and you went like  
 11:05:12 21 this (indicating). Was that -- were those  
 11:05:14 22 paper towel dispensers?  
 11:05:16 23 A. It was cloth, but the others  
 11:05:17 24 were -- you know, they're like metal and they  
 11:05:23 25 had the key thing and you'd lift it up and put

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11:05:29 1 the paper in them.  
 11:05:29 2 Q. Okay. Specifically focusing now  
 11:05:34 3 on Van Dyne-Crotty --  
 11:05:38 4 A. Right.  
 11:05:39 5 Q. -- were they the paper towel  
 11:05:31 6 dispensers or the cloth dispensers or both?  
 11:05:34 7 A. Both.  
 11:05:34 8 Q. And these were metal?  
 11:05:37 9 A. Yeah.  
 11:05:38 10 Q. Okay. And what happened -- and  
 11:05:42 11 when you say uniforms, these are like work  
 11:05:45 12 uniforms?  
 11:05:45 13 A. Yes.  
 11:05:48 14 Q. All right. Focusing now on the  
 11:05:48 15 work uniforms, where did that waste go, the  
 11:05:53 16 uniforms?  
 11:05:55 17 A. Cloth material we normally took to  
 11:05:58 18 the third or -- yeah, the third -- third  
 11:06:01 19 tier --  
 11:06:01 20 Q. Okay.  
 11:06:01 21 A. -- with the other trash.  
 11:06:02 22 Q. Okay. And how about the paper?  
 11:06:08 23 A. We normally used them on the dump  
 11:06:10 24 to wash our hands with and took them home to  
 11:06:13 25 use them and --

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11:06:14 1 Q. Okay. Now about the towel  
 11:06:17 2 dispensers?  
 11:06:19 3 A. They'd go in the burnable pile  
 11:06:20 4 first, and then when Larry brought the  
 11:06:22 5 container, we'd put them in there.  
 11:06:26 6 Q. Okay. Okay. You had mentioned  
 11:06:29 7 when we were talking about Hewitt Soap that  
 11:06:32 8 there were metal dispensers that at first were  
 11:06:36 9 put in the burnable section of the dump.  
 11:06:39 10 A. Right.  
 11:06:39 11 Q. And then later on put in like a  
 11:06:41 12 Dumpster for Franklin Iron and Metal.  
 11:06:43 13 A. Well, like I said, the crane would  
 11:06:46 14 pick them up and put them on the truck.  
 11:06:47 15 Q. Okay. I see. Okay. It's the  
 11:06:49 16 same --  
 11:06:50 17 A. Before the -- before the Dumpster  
 11:06:51 18 came.  
 11:06:51 19 Q. Okay. I see. And the same -- the  
 11:06:54 20 same kind of operation with the dispensers from  
 11:06:57 21 Van Dyne-Crotty?  
 11:06:57 22 A. Um-hum.  
 11:06:58 23 Q. Yes?  
 11:06:58 24 A. Yes.  
 11:06:58 25 Q. Okay. Now, did Van Dyne-Crotty

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11:07:02 1 have their own trucks or someone else brought  
 11:07:05 2 their stuff?  
 11:07:06 3 A. They were panel vans, and I  
 11:07:09 4 believe there was writing on it that said --  
 11:07:11 5 I'm pretty sure. I'm not a hundred percent.  
 11:07:13 6 Q. Okay. But you have a memory of a  
 11:07:15 7 panel van with the word Van Dyne-Crotty on it?  
 11:07:18 8 A. Yeah. Yes.  
 11:07:19 9 Q. Okay. And when did you --  
 11:07:23 10 MR. VAN KLEY: Objection. I'm going  
 11:07:24 11 to object to that last question and move to strike  
 11:07:31 12 for -- for form.  
 11:07:35 13 BY MR. ROMINE:  
 11:07:35 14 Q. And when do you first remember  
 11:07:40 15 seeing waste from Van Dyne-Crotty, Inc. -- or,  
 11:07:44 16 excuse me, just Van Dyne-Crotty?  
 11:07:45 17 A. I think it wasn't till maybe the  
 11:07:49 18 '70s. I don't remember them in the '60s.  
 11:07:51 19 Q. Okay. We're going to move on now  
 11:08:00 20 again. Ohio Bell, are you familiar with a  
 11:08:05 21 company called Ohio Bell?  
 11:08:06 22 A. Yes.  
 11:08:06 23 Q. And were they a customer of the  
 11:08:09 24 South Dayton Dump?  
 11:08:10 25 A. Yes.

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11:08:10 1 Q. And what kind of waste came from  
 11:08:13 2 Ohio Bell?  
 11:08:14 3 A. They brought either like trash  
 11:08:18 4 cans or drums that had little itasy-bitay things  
 11:08:24 5 you put wire together, sleeves, like sleeve  
 11:08:25 6 stuff. Sometimes things that -- they were  
 11:08:29 7 rods, maybe 15, 16 feet long.  
 11:08:38 8 We got a few phones, but I don't  
 11:08:50 9 remember -- you know, it wasn't very -- I don't  
 11:08:52 10 know what -- that's about it. It wasn't a  
 11:08:59 11 whole lot of stuff, so --  
 11:09:01 12 Q. Okay. When you say sleeves, what  
 11:09:04 13 kind of sleeves, like for a wire?  
 11:09:05 14 A. Yeah, like plastic coating that  
 11:09:08 15 came off of -- of wiring.  
 11:09:11 16 Q. Okay. And rods, what were the  
 11:09:13 17 rods for?  
 11:09:15 18 A. It looked like later I noticed  
 11:09:19 19 some in construction where they'd go up like a  
 11:09:28 20 telephone pole and they had like a -- one part  
 11:09:27 21 and it had a -- a U shape that would clamp onto  
 11:09:33 22 it, and go --  
 11:09:34 23 Q. Were these so that the workers  
 11:09:37 24 could climb the telephone pole or is that  
 11:09:37 25 something different?

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11:09:37 1 A. Not that I -- no, I don't --  
 11:09:42 2 MR. SLAUGHTER: Objection to form.  
 11:09:42 3 James Slaughter.  
 11:09:44 4 THE WITNESS: -- I don't think so.  
 11:09:44 5 MR. SLAUGHTER: Could the witness  
 11:09:44 6 speak up, too, please? Thank you.  
 11:09:44 7 THE WITNESS: Okay. No, I don't know  
 11:09:44 8 exactly what they were for, but I -- after --  
 11:09:47 9 later I saw some of them on telephone poles, so  
 11:09:51 10 they might have been like protectors to keep the  
 11:09:54 11 wire from getting damaged.  
 11:09:55 12 BY MR. ROMINE:  
 11:09:55 13 Q. Okay. And what were these rods  
 11:09:59 14 made out of?  
 11:10:01 15 A. I think it was steel, because  
 11:10:06 16 Kenny would come down or I'd bring them up to  
 11:10:10 17 him and he'd check with a magnet, and I think  
 11:10:12 18 they -- I'm pretty sure they were -- what kind  
 11:10:13 19 of steel, I don't know.  
 11:10:14 20 Q. Okay. Some kind of metal?  
 11:10:16 21 A. Yeah, some kind of metal.  
 11:10:17 22 Q. Yeah. And going back to the  
 11:10:18 23 sleeves, you said they were plastic?  
 11:10:21 24 A. Yes.  
 11:10:23 25 Q. And where were those disposed of?

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11:10:24 1 A. That would go to the third -- no,  
 11:10:26 2 we -- I think we put them on the second tier to  
 11:10:32 3 get burned, because the cushion of it on the  
 11:10:38 4 third tier, you know, they tried to keep solid,  
 11:10:41 5 because once we kept pushing into the pit, we  
 11:10:44 6 wanted it as solid as we could, so I think they  
 11:10:47 7 were burned.  
 11:10:48 8 Q. Okay. So if I'm understanding  
 11:10:50 9 you, the sleeves were less dense, and,  
 11:10:53 10 therefore, put on the second tier?  
 11:10:55 11 A. Right.  
 11:10:56 12 MR. SLAUGHTER: Objection to form.  
 11:10:57 13 Asked and answered.  
 11:10:58 14 BY MR. ROMINE:  
 11:10:58 15 Q. And how about the rods, where were  
 11:11:01 16 they disposed of?  
 11:11:03 17 A. It would go in -- we had a metal  
 11:11:05 18 pile like bicycles and -- and washers and  
 11:11:10 19 dryers and refrigerators would go in this one  
 11:11:13 20 pile. Eventually get hauled off from Franklin  
 11:11:18 21 Iron and Steel.  
 11:11:18 22 Q. Okay. And then you said  
 11:11:19 23 occasionally you would have a telephone come to  
 11:11:19 24 the site --  
 11:11:23 25 A. Yeah.

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11:11:23 1 Q. -- from Ohio Bell?

11:11:24 2 A. Yeah.

11:11:24 3 Q. And where did those go?

11:11:27 4 A. We kept them mostly.

11:11:28 5 MR. SLAUGHTER: Excuse me?

11:11:31 6 THE WITNESS: I said we kept them

11:11:32 7 mostly and -- phones.

11:11:36 8 MR. SLAUGHTER: Thank you.

11:11:36 9 BY MR. ROMINE:

11:11:36 10 Q. All right. So it sounds like from

11:11:38 11 what you're telling me, the three main kinds of

11:11:43 12 waste that came from Ohio Bell were these

11:11:44 13 sleeves, plastic sleeves, metal rods and some

11:11:48 14 telephones?

11:11:48 15 A. Right.

11:11:49 16 Q. But by and large, the only part of

11:11:53 17 that that really remained at the site were the

11:11:57 18 sleeves, because the -- the plastic sleeves,

11:11:59 19 because the rods and the phones were reused

11:12:01 20 somehow?

11:12:01 21 A. Well, every now and then we'd

11:12:05 22 get -- like DP&L, the things you wrap wire, but

11:12:08 23 they were a lot smaller.

11:12:09 24 Q. Like a spool?

11:12:10 25 A. Yeah, a spool.

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11:12:10 1 MR. SLAUGHTER: Objection. Leading

11:12:12 2 the witness.

11:12:12 3 BY MR. ROMINE:

11:12:13 4 Q. And how would you dispose of the

11:12:16 5 spools or after you disposed --

11:12:17 6 A. Some would go in the burn pile,

11:12:21 7 which would be the second tier.

11:12:23 8 Q. Okay. The burn pile?

11:12:23 9 A. Yeah.

11:12:23 10 Q. Okay. And, again, going back to

11:12:27 11 time -- a time period, when was the first time

11:12:29 12 you remember seeing waste from Ohio Bell come?

11:12:35 13 A. Ever since I worked there in the

11:12:38 14 '60s.

11:12:38 15 MR. SLAUGHTER: Excuse me?

11:12:40 16 THE WITNESS: In the '60s.

11:12:41 17 BY MR. ROMINE:

11:12:41 18 Q. Did they have their own trucks or

11:12:48 19 were they hauled by someone else?

11:12:50 20 A. Yeah, they had their own truck.

11:12:51 21 Q. Did they have the Ohio Bell logo?

11:12:54 22 A. Yes.

11:12:56 23 Q. Do you remember any of their

11:12:57 24 drivers?

11:12:57 25 A. No.

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11:13:57 1 Q. Okay. You want a break?

11:13:01 2 A. No. I mean, unless everybody --

11:13:06 3 okay. I'm fine.

11:13:06 4 Q. Let's go. Yeah. All right. I'm

11:13:11 5 going to name another company. Do you remember

11:13:16 6 a company called the Peerless Transportation

11:13:21 7 Company?

11:13:21 8 A. Yes, but I don't recall what they

11:13:35 9 dumped or -- I just know the name.

11:13:37 10 Q. You know the name?

11:13:38 11 A. Yeah.

11:13:39 12 Q. Did Peerless Transportation

11:13:43 13 Company -- were they a customer of the South

11:13:43 14 Dayton Dump?

11:13:44 15 A. I'm not sure.

11:13:47 16 Q. Okay. Let me move on then.

11:13:55 17 Pittsburgh Paint.

11:13:57 18 A. Yes.

11:13:57 19 Q. Do you remember Pittsburgh Paint?

11:13:59 20 A. Yes.

11:14:00 21 Q. Was Pittsburgh Paint a customer of

11:14:02 22 the South Dayton Dump?

11:14:02 23 A. Yes.

11:14:03 24 Q. And what kind of waste did

11:14:05 25 Pittsburgh Paint bring to the dump?

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11:14:09 1 A. A lot of paint cans, sometime they

11:14:14 2 had paint in them, sometime they wouldn't.

11:14:17 3 Broken up bags of -- now that I work

11:14:22 4 construction, like plaster paris, plaster -- at

11:14:29 5 that time, we didn't -- drywall wasn't a big

11:14:32 6 thing, but it started to be in the '60s, so

11:14:35 7 sometimes we'd get drywall products, you know.

11:14:40 8 Q. So it was paint and drywall?

11:14:43 9 MR. STINSON: Objection to form.

11:14:46 10 Pete Stinson.

11:14:46 11 THE WITNESS: Yes.

11:14:47 12 BY MR. ROMINE:

11:14:47 13 Q. Anything other than paint and

11:14:49 14 drywall?

11:14:49 15 A. There was some 55-gallon drums.

11:15:04 16 Some skids, and that's all I can remember at

11:15:14 17 this time.

11:15:14 18 Q. What was in the 55-gallon drums?

11:15:18 19 MR. STINSON: Objection to form.

11:15:19 20 THE WITNESS: Most of the time they

11:15:21 21 were empty. We'd get some that might have a

11:15:24 22 little bit like what was called mineral spirits or

11:15:29 23 lacquer thinner, but not very often.

11:15:30 24 BY MR. ROMINE:

11:15:30 25 Q. Okay. I want to concentrate now

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11:15:34 1 on the paint for a moment. Where was the paint  
 11:15:38 2 disposed of?  
 11:15:39 3 A. The pit.  
 11:15:40 4 Q. Okay. How about the drywall,  
 11:15:43 5 where was that disposed of?  
 11:15:48 6 A. Well, it wasn't actually drywall,  
 11:15:49 7 it was more like a powder kind of thing, you  
 11:15:52 8 know. Those were taken to the pit, also.  
 11:15:54 9 Q. Okay. The skids, what happened to  
 11:16:01 10 the skids?  
 11:16:04 11 A. Would go up to the top tier and --  
 11:16:06 12 where they could be sorted out and either burnt  
 11:16:09 13 or sent to Skid Row.  
 11:16:10 14 Q. Similar to the other skids you  
 11:16:12 15 told me about earlier?  
 11:16:12 16 A. Right. Um-hum.  
 11:16:14 17 Q. And then the 55-gallon drums, you  
 11:16:17 18 said they were mostly empty, sometimes they had  
 11:16:20 19 some paint thinner or mineral spirits in the  
 11:16:23 20 bottom?  
 11:16:23 21 MR. STINSON: Objection to form.  
 11:16:28 22 THE WITNESS: They would go to the  
 11:16:31 23 area where we kept the 55-gallon drums where we  
 11:16:34 24 took the lids off of them because they were  
 11:16:37 25 usually in pretty good shape.

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11:16:38 1 BY MR. ROMINE:  
 11:16:38 2 Q. And what did you do with the  
 11:16:40 3 material in the bottom of the drums?  
 11:16:43 4 A. Pour it out on the ground.  
 11:16:45 5 Q. Was that in the pit or just on the  
 11:16:46 6 ground?  
 11:16:47 7 A. If they didn't have very much  
 11:16:49 8 stuff, we'd dump it behind the office and we'd  
 11:16:51 9 just dump it right there.  
 11:16:52 10 Q. Okay. And did Pittsburgh Paint  
 11:17:00 11 have their own trucks or did they have someone  
 11:17:05 12 else bring it in?  
 11:17:06 13 A. I don't remember.  
 11:17:08 14 Q. And what -- when do you remember  
 11:17:12 15 the first time Pittsburgh Paint waste coming to  
 11:17:16 16 the site?  
 11:17:18 17 A. Mid '60s.  
 11:17:17 18 Q. Did the Pittsburgh Paint waste  
 11:17:19 19 come throughout the time --  
 11:17:22 20 MR. STINSON: Objection to form.  
 11:17:22 21 BY MR. ROMINE:  
 11:17:22 22 Q. -- you were there?  
 11:17:24 23 MR. STINSON: Objection to form.  
 11:17:25 24 THE WITNESS: Yes.  
 11:17:26 25 BY MR. ROMINE:

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11:17:29 1 Q. Do you remember any drivers?  
 11:17:31 2 A. No.  
 11:17:31 3 Q. Moving on now. Reynolds and  
 11:17:41 4 Reynolds.  
 11:17:41 5 A. Yes.  
 11:17:41 6 Q. Do you remember a company called  
 11:17:44 7 Reynolds and Reynolds?  
 11:17:44 8 A. Yes.  
 11:17:45 9 Q. Were they a customer of the South  
 11:17:45 10 Dayton Dump?  
 11:17:49 11 MR. McCALL: Objection to form. Duke  
 11:17:56 12 McCall, counsel for Reynolds and Reynolds.  
 11:17:58 13 BY MR. ROMINE:  
 11:17:59 14 Q. And what kind of waste did  
 11:18:01 15 Reynolds and Reynolds bring to the dump?  
 11:18:04 16 MR. McCALL: Objection to form.  
 11:18:04 17 THE WITNESS: Mostly paper products,  
 11:18:07 18 some skids. Boxes, a lot of boxes.  
 11:18:14 19 BY MR. ROMINE:  
 11:18:14 20 Q. And what were the boxes made out  
 11:18:25 21 of?  
 11:18:26 22 A. Cardboard.  
 11:18:28 23 Q. All right. We had mentioned --  
 11:18:29 24 you had talked about skids from a number of  
 11:18:32 25 other different companies, and were the skids

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11:18:36 1 from Reynolds and Reynolds treated similar to  
 11:18:39 2 the skids you would get from the other  
 11:18:40 3 companies?  
 11:18:43 4 A. Right. 42 by 42 usually.  
 11:18:43 5 MR. McCALL: Objection to form.  
 11:18:43 6 BY MR. ROMINE:  
 11:18:44 7 Q. Okay. I'm not going to go into  
 11:18:44 8 that in any more --  
 11:18:44 9 A. Okay.  
 11:18:46 10 Q. -- any more detail, but now the  
 11:18:46 11 paper products, what kind of paper did the dump  
 11:18:49 12 get from Reynolds and Reynolds?  
 11:18:41 13 A. Just various shreds sometime.  
 11:18:50 14 Sometimes it looked like office stuff.  
 11:18:54 15 Q. And would -- where was that  
 11:18:55 16 disposed of?  
 11:18:59 17 MR. McCALL: Object to the form.  
 11:18:59 18 THE WITNESS: Well, the cardboard was  
 11:19:00 19 put up the top tier where the two guys -- the two  
 11:19:05 20 gentlemen put them on the truck.  
 11:19:06 21 The other that was -- we'd put it on  
 11:19:10 22 the second tier that was burnable stuff.  
 11:19:18 23 MR. McCALL: Move to strike.  
 11:19:18 24 BY MR. ROMINE:  
 11:19:18 25 Q. And how about the paper?

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11:19:19 1 A. That's what I'm saying, the paper.  
11:19:21 2 Q. Okay. The paper would go with the  
11:19:22 3 burnables?

11:19:24 4 MR. McCALL: Object to the form.  
11:19:25 5 THE WITNESS: Yes.

11:19:26 6 BY MR. ROMINE:

11:19:28 7 Q. And the cardboard, you had  
11:19:29 8 mentioned that at some point there were two  
11:19:30 9 guys hired to, I guess, reclaim the usable  
11:19:31 10 cardboard?

11:19:32 11 MR. McCALL: Objection. Form.

11:19:34 12 THE WITNESS: They'd break the boxes  
11:19:35 13 up and then squish them into the thing to be  
11:19:36 14 recycled to Dayton Fiber.

11:19:40 15 BY MR. ROMINE:

11:19:40 16 Q. Okay. And when do you remember  
11:19:42 17 the Reynolds and Reynolds -- the first time you  
11:19:43 18 remember the Reynolds and Reynolds waste come  
11:19:44 19 to the dump?

11:19:48 20 MR. McCALL: Objection. Form.

11:19:50 21 THE WITNESS: I think in the '70s  
11:19:52 22 maybe.

11:19:52 23 BY MR. ROMINE:

11:19:53 24 Q. '70s?

11:19:53 25 A. Yeah.

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11:19:53 1 Q. All right. I want to try and  
11:19:55 2 focus on Reynolds and Reynolds right now. Was  
11:19:58 3 there a time that the Reynolds and Reynolds  
11:20:01 4 cardboard came to the dump before these two  
11:20:04 5 guys were hired to reclaim the cardboard?

11:20:07 6 A. I don't know that.

11:20:09 7 Q. And did Reynolds and Reynolds --  
11:20:14 8 did they have their own truck?

11:20:18 9 A. I don't know that.

11:20:19 10 Q. Okay. Do you remember any  
11:20:20 11 drivers --

11:20:21 12 A. No.

11:20:21 13 Q. -- that brought Reynolds and  
11:20:23 14 Reynolds waste? Okay. How you doing?

11:20:31 15 A. Um-hum. Okay.

11:20:33 16 MR. McCALL: I'm sorry, what was the  
11:20:34 17 answer? I didn't hear the answer.

11:20:36 18 MR. ROMINE: He said okay.

11:20:36 19 THE WITNESS: I said okay.

11:20:38 20 BY MR. ROMINE:

11:20:38 21 Q. Are you familiar with a company  
11:20:40 22 called Sherwin-Williams Company?

11:20:40 23 A. Yes.

11:20:50 24 Q. And was Sherwin-Williams Company a  
11:20:52 25 customer of the South Dayton Dump?

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11:20:54 1 A. Yes.

11:20:54 2 Q. And what kind of waste came from  
11:20:56 3 the Sherwin-Williams Company?

11:20:57 4 MR. EDDY: Objection to the form of  
11:20:57 5 the question. Robert Eddy.

11:21:01 6 THE WITNESS: Same as Pittsburgh, and  
11:21:06 7 we had a company called -- I can't remember.

11:21:11 8 There was like three companies, paint companies,  
11:21:13 9 that would come. You know, cans, skids, box --  
11:21:20 10 boxes. Lots of -- we had -- they sent more drums  
11:21:26 11 than any of the other paint companies.

11:21:31 12 BY MR. ROMINE:

11:21:31 13 Q. Okay. So you're saying  
11:21:32 14 Sherwin-Williams was a paint company?

11:21:35 15 MR. EDDY: Objection to form.

11:21:35 16 THE WITNESS: Yes.

11:21:36 17 BY MR. ROMINE:

11:21:37 18 Q. And the skids, I take it, were  
11:21:41 19 dealt with the same way we had talked about --  
11:21:43 20 skids from a dozen other companies we talked  
11:21:44 21 about today?

11:21:44 22 A. Correct.

11:21:44 23 MR. EDDY: Objection to form.

11:21:48 24 BY MR. ROMINE:

11:21:48 25 Q. And you said that they -- that

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11:21:51 1 Sherwin-Williams brought more drums to the site  
11:21:56 2 than did Pittsburgh Paint, is that correct?

11:21:57 3 MR. EDDY: Objection to form.

11:21:58 4 THE WITNESS: Right.

11:21:58 5 BY MR. ROMINE:

11:21:58 6 Q. And when you say drums, are these  
11:22:03 7 55-gallon drums or some other drums?

11:22:04 8 A. 55-gallon drums.

11:22:06 9 Q. And focusing now on  
11:22:08 10 Sherwin-Williams, what was in those drums --

11:22:14 11 MR. EDDY: Objection to form.

11:22:14 12 BY MR. ROMINE:

11:22:14 13 Q. -- if anything?

11:22:18 14 A. Paint, the thinners, but mostly,  
11:22:26 15 you know, paint residue.

11:22:31 16 Q. Were they -- did they have -- did  
11:22:34 17 all the drums have something in them or were  
11:22:35 18 some empty?

11:22:36 19 MR. EDDY: Objection.

11:22:37 20 THE WITNESS: They were some empty.  
11:22:39 21 Most of the thinners were pretty empty, and like I  
11:22:41 22 said, if it wasn't, we'd dump the -- behind the  
11:22:44 23 office and took the lids off of them.

11:22:46 24 BY MR. ROMINE:

11:22:46 25 Q. And did Sherwin-Williams Company

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11:22:58 1 bring their own waste to the site or was it  
 11:23:00 2 somebody else?  
 11:23:01 3 A. Pardon me?  
 11:23:01 4 Q. Did Sherwin-Williams bring its own  
 11:23:04 5 waste to the dump or did somebody else bring it  
 11:23:06 6 for them?  
 11:23:07 7 MR. EDDY: Objection to form.  
 11:23:10 8 THE WITNESS: They brought their own  
 11:23:12 9 vehicle.  
 11:23:13 10 BY MR. ROMINE:  
 11:23:13 11 Q. And what was -- what did that  
 11:23:15 12 vehicle look like?  
 11:23:18 13 A. It was -- most of them were white  
 11:23:19 14 vans.  
 11:23:22 15 Q. White vans?  
 11:23:22 16 A. Yeah. There was -- I think there  
 11:23:23 17 was a couple times I saw a flatbed truck.  
 11:23:29 18 Q. Okay.  
 11:23:29 19 A. But most of them -- my  
 11:23:31 20 recollection was that -- because I thought it  
 11:23:33 21 was funny, is that if they brought big enough  
 11:23:37 22 drums and enough paint to paint the buildings  
 11:23:39 23 that my dad and my partner had, I don't care if  
 11:23:43 24 they were pink, purple or whatever.  
 11:23:45 25 I -- one summer I had to paint the

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11:23:46 1 buildings with this paint they got from  
 11:23:48 2 Sherwin-Williams, and we'd go down and buy --  
 11:23:51 3 have them -- if we were just a little short,  
 11:23:55 4 they'd mix us up some more. So I got to be  
 11:23:58 5 really close to -- what's his name -- the  
 11:24:00 6 manager there on Patterson Boulevard.  
 11:24:07 7 Oh, I can't remember his name.  
 11:24:08 8 It'll come up later, but --  
 11:24:09 9 Q. Are you talking about someone who  
 11:24:10 10 worked for Sherwin-Williams?  
 11:24:13 11 A. Yeah, he was the manager of that  
 11:24:13 12 store. They had an industrial building up  
 11:24:18 13 north somewhere, and then they had -- they had  
 11:24:22 14 built one, I think, in the '70s over on --  
 11:24:26 15 close to the dump. I can't remember the name  
 11:24:29 16 of -- Baldwin Drive maybe or something like  
 11:24:31 17 that. So they still kept doing business, but a  
 11:24:36 18 lot of the stuff came from the Patterson Road  
 11:24:39 19 store.  
 11:24:40 20 Q. Okay. So --  
 11:24:43 21 MR. EDDY: Objection. Move to strike  
 11:24:46 22 that last answer.  
 11:24:46 23 BY MR. ROMINE:  
 11:24:46 24 Q. So you mentioned that -- that  
 11:24:48 25 Sherwin-Williams brought drums in in a van?

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11:24:48 1 A. Right.  
 11:24:52 2 Q. And your understanding was that it  
 11:24:53 3 came from a store on Patterson Boulevard?  
 11:24:52 4 A. Right.  
 11:24:55 5 MR. EDDY: Objection to the last two  
 11:24:56 6 questions.  
 11:24:56 7 BY MR. ROMINE:  
 11:24:56 8 Q. And any other locations that the  
 11:25:00 9 waste came from?  
 11:25:02 10 A. From Sherwin-Williams?  
 11:25:03 11 Q. Yeah.  
 11:25:04 12 A. Like I said, you know, there was a  
 11:25:06 13 place up north, because I remember some of the  
 11:25:12 14 drivers complaining because they -- at that  
 11:25:15 15 time, the highway was built and it -- the  
 11:25:19 16 malfunction junction, and when they'd make  
 11:25:23 17 curves, sometimes that stuff would get in their  
 11:25:24 18 van and they'd be mad and we sat and talked  
 11:25:26 19 and -- but then, again, most of it came from  
 11:25:31 20 Patterson store until like -- Arbor, maybe it  
 11:25:37 21 was Arbor Boulevard is where they built the new  
 11:25:37 22 building.  
 11:25:37 23 BY MR. ROMINE:  
 11:25:40 24 Q. And how many --  
 11:25:41 25 MR. EDDY: Move to strike.

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11:25:42 1 BY MR. ROMINE:  
 11:25:42 2 Q. -- how many drums were in the  
 11:25:47 3 vans?  
 11:25:48 4 MR. EDDY: Objection.  
 11:25:47 5 THE WITNESS: Usually a couple.  
 11:25:47 6 BY MR. ROMINE:  
 11:25:47 7 Q. A couple?  
 11:25:48 8 A. And then a lot of -- a lot of can  
 11:25:53 9 lids, you know, like one gallon lids that were  
 11:25:54 10 pretty bent up with various colors like where  
 11:25:57 11 you'd open a can of paint.  
 11:25:59 12 Q. And where were the can lids  
 11:26:01 13 disposed of?  
 11:26:03 14 A. We had a place for tin, another  
 11:26:07 15 pile on the dump that empty cans -- they had to  
 11:26:13 16 be completely empty, we'd put them there to be  
 11:26:15 17 hauled off for metal to Franklin Iron and  
 11:26:17 18 Metal.  
 11:26:17 19 Q. Did you clean out the -- the cans?  
 11:26:20 20 A. Oh, no. No.  
 11:26:21 21 Q. You just left them there empty?  
 11:26:24 22 A. If the ones had gallon cans, we'd  
 11:26:24 23 take them to the second tier where they could  
 11:26:31 24 be burned, and a lot -- either they'd burn it  
 11:26:33 25 completely or they'd burn enough if they were

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11:26:35 1 underneath something where it could be with the  
 11:26:38 2 magnet and dropped into the truck.  
 11:26:41 3 Q. Did the -- did the gallon cans --  
 11:26:44 4 were they always empty or did they have paint  
 11:26:47 5 in them?  
 11:26:48 6 MR. EDDY: Objection.  
 11:26:49 7 THE WITNESS: Like I said, if  
 11:26:49 8 sometimes they would have maybe a third or half  
 11:26:51 9 paint in them, Uncle Alcine wanted me to empty  
 11:26:56 10 them into various things, but I -- I'd empty the  
 11:27:02 11 oil base with latex. Latex was just coming in --  
 11:27:06 12 into focus, and so I got -- he got mad because I  
 11:27:11 13 had oil products and water products, and so we  
 11:27:14 14 stopped that, you know.  
 11:27:14 15 MR. EDDY: Move to strike.  
 11:27:17 16 THE WITNESS: So I remember that.  
 11:27:18 17 BY MR. ROMINE:  
 11:27:18 18 Q. He didn't want you to -- to dump  
 11:27:21 19 the oil based paint with the latex based paint?  
 11:27:21 20 A. They wouldn't --  
 11:27:24 21 MR. EDDY: Objection to form.  
 11:27:25 22 THE WITNESS: -- they wouldn't blend  
 11:27:26 23 together, so, you know, he wanted to reuse them  
 11:27:29 24 and paint stuff with them.  
 11:27:29 25 BY MR. ROMINE:

11:27:32 1 Q. I see.  
 11:27:33 2 A. A lot of times they brought  
 11:27:34 3 industrial, and then we'd paint various metal  
 11:27:36 4 things on the dump. One summer I spent  
 11:27:40 5 painting poles and the bulldozers and the  
 11:27:44 6 tractor.  
 11:27:48 7 Q. Was this with the -- from -- with  
 11:27:48 8 waste paint from Sherwin-Williams?  
 11:27:49 9 A. Right.  
 11:27:50 10 MR. EDDY: Objection. Form.  
 11:27:51 11 BY MR. ROMINE:  
 11:27:51 12 Q. And was there any waste paint from  
 11:27:53 13 Sherwin-Williams that didn't get used up  
 11:27:56 14 somehow?  
 11:27:58 15 MR. EDDY: Object to the form.  
 11:27:59 16 THE WITNESS: Yes, and that went on  
 11:28:02 17 to the pit if it was liquid form.  
 11:28:03 18 BY MR. ROMINE:  
 11:28:04 19 Q. Okay. Do you remember any of  
 11:28:08 20 their drivers?  
 11:28:08 21 A. No. Well, actually I started --  
 11:28:09 22 because of the Patterson Boulevard, I got to  
 11:28:14 23 know some of the drivers and -- but mainly I  
 11:28:18 24 knew the manager, because after I got into  
 11:28:21 25 construction, we stayed -- Martin, Martin, I

11:28:26 1 think, he was a German guy and he was from  
 11:28:31 2 Germany, so we'd sit and talk about the war and  
 11:28:34 3 everything and I'd ask him questions, and  
 11:28:37 4 that's about it.  
 11:28:38 5 Q. Was Martin his first name or his  
 11:28:40 6 last name?  
 11:28:41 7 A. I think it was his first name.  
 11:28:43 8 Q. And when do you first remember  
 11:28:45 9 waste coming to the dump from Sherwin-Williams?  
 11:28:47 10 MR. EDDY: Objection. Form.  
 11:28:51 11 THE WITNESS: I really remember  
 11:28:56 12 mid -- mid '60s. Like I said before, the '60s.  
 11:28:59 13 between the beginning and end, was so steady, and  
 11:29:07 14 the EPA wasn't on the dump so much, and -- and so  
 11:29:09 15 we could pretty much do what we wanted to, but  
 11:29:14 16 then when it got sticky and we couldn't burn  
 11:29:15 17 anymore -- because if we burned -- if the wind was  
 11:29:19 18 going in the direction of Dayton, it would smoke  
 11:29:21 19 the whole downtown area, and that's when the EPA  
 11:29:24 20 would come and complain about the smoke. So then  
 11:29:28 21 eventually we had to go from a burnable dump to  
 11:29:31 22 just covering up stuff, so --  
 11:29:35 23 BY MR. ROMINE:  
 11:29:35 24 Q. Okay. Speaking specifically about  
 11:29:40 25 Sherwin-Williams though, I'm trying to focus on

11:29:41 1 when you first remember seeing the  
 11:29:44 2 Sherwin-Williams waste come to the dump.  
 11:29:46 3 MR. EDDY: Objection to form.  
 11:29:49 4 THE WITNESS: '60s.  
 11:29:50 5 BY MR. ROMINE:  
 11:29:50 6 Q. Okay. Moving on now. Standard  
 11:29:58 7 Register.  
 11:29:59 8 A. Um-hum.  
 11:29:59 9 Q. Do you remember the name Standard  
 11:30:02 10 Register?  
 11:30:02 11 A. Yes.  
 11:30:02 12 Q. And was Standard Register a  
 11:30:05 13 customer of the South Dayton Dump?  
 11:30:06 14 A. Yes.  
 11:30:06 15 Q. And what kind of waste did  
 11:30:06 16 Standard Register bring to the dump?  
 11:30:11 17 MR. HAUGHEY: Steve Haughey.  
 11:30:11 18 Objection as to form.  
 11:30:13 19 THE WITNESS: It was real -- it was  
 11:30:17 20 similar to NCR stuff, and I thought it was part of  
 11:30:21 21 NCR, but later was corrected, but -- so I thought  
 11:30:22 22 they were the same company, so --  
 11:30:24 23 BY MR. ROMINE:  
 11:30:24 24 Q. And go ahead and tell me now about  
 11:30:26 25 Standard Register and what you remember about

11:30:53 1 Standard Register and their waste.  
 11:30:55 2 A. We got a lot of keys and -- and  
 11:31:05 3 drawers and different things that came from  
 11:31:08 4 registers, a lot of steel stuff, and we didn't  
 11:31:14 5 have to mess with that stuff very often, other  
 11:31:29 6 than the skids that -- it went into the pile  
 11:31:23 7 that was metal.  
 11:31:25 8 If it had some plastic products,  
 11:31:27 9 then we'd have to put it in the burn pit or  
 11:31:30 10 burn pile and burn the plastic off of them to  
 11:31:33 11 sell them for metal.  
 11:31:37 12 Q. And what happened to the metal?  
 11:31:43 13 A. It was sent to Franklin Iron and  
 11:31:43 14 Metal.  
 11:31:43 15 Q. Okay. And you said that some of  
 11:31:46 16 the stuff had plastic on it?  
 11:31:47 17 A. Yeah.  
 11:31:48 18 Q. Okay. And that was broken off?  
 11:31:51 19 A. Burnt.  
 11:31:52 20 MR. HAUGHEY: Objection. Form.  
 11:31:53 21 BY MR. ROMINE:  
 11:31:53 22 Q. It was burnt?  
 11:31:53 23 A. Yeah.  
 11:31:54 24 Q. So, again, just trying to figure  
 11:31:56 25 out what happened. If the -- the waste was

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11:32:01 1 plastic attached to the metal?  
 11:32:02 2 A. Um-hum.  
 11:32:03 3 Q. Yes?  
 11:32:04 4 A. Yes.  
 11:32:04 5 Q. And then that went into the  
 11:32:06 6 burnable?  
 11:32:06 7 A. Burnable, yes.  
 11:32:07 8 Q. Okay. And it was burned?  
 11:32:08 9 MR. HAUGHEY: Objection. Leading.  
 11:32:10 10 BY MR. ROMINE:  
 11:32:10 11 Q. Correct?  
 11:32:11 12 A. Until we had to bury stuff, yeah.  
 11:32:13 13 Q. Yeah. Well, let me get -- let me  
 11:32:14 14 start with the burning. Let's start with the  
 11:32:16 15 burning.  
 11:32:17 16 A. Yeah.  
 11:32:17 17 Q. Some of it was burned? Yes?  
 11:32:20 18 A. All of it at the time that we  
 11:32:21 19 could burn got burned.  
 11:32:24 20 Q. Okay. And then there was metal  
 11:32:26 21 that was basically left over?  
 11:32:28 22 A. Right.  
 11:32:28 23 MR. HAUGHEY: Objection. Leading.  
 11:32:28 24 BY MR. ROMINE:  
 11:32:29 25 Q. And that was salvaged?

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11:32:30 1 A. Yes.  
 11:32:30 2 Q. Okay. Now, let's go to some --  
 11:32:34 3 another time period you're talking about when  
 11:32:35 4 it was buried.  
 11:32:36 5 A. Right.  
 11:32:36 6 Q. Okay. And at some point, the  
 11:32:39 7 waste from Standard Register got buried instead  
 11:32:42 8 of burned?  
 11:32:42 9 MR. HAUGHEY: Objection. Leading.  
 11:32:44 10 THE WITNESS: Correct.  
 11:32:44 11 BY MR. ROMINE:  
 11:32:44 12 Q. When was that?  
 11:32:46 13 A. Early '70s.  
 11:32:50 14 Q. Okay. And was it the same type of  
 11:32:50 15 waste?  
 11:32:55 16 A. Yeah.  
 11:32:58 17 Q. And Standard Register, did they  
 11:32:59 18 have their own trucks or did someone bring it  
 11:33:03 19 to the site for them?  
 11:33:03 20 A. I don't remember.  
 11:33:04 21 Q. How often did Standard Register  
 11:33:07 22 come to the dump?  
 11:33:09 23 A. Once a month maybe, because, see,  
 11:33:16 24 I -- like I said, I had them confused with NCR,  
 11:33:19 25 so, you know, I thought it was the same

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11:33:20 1 company, so --  
 11:33:20 2 Q. I understand. Same -- same kind  
 11:33:25 3 of waste?  
 11:33:25 4 A. Yeah.  
 11:33:26 5 Q. One thing I may have forgotten to  
 11:33:31 6 ask you about Sherwin-Williams Company. How  
 11:33:32 7 often did Sherwin-Williams Company -- how often  
 11:33:35 8 did their waste come to the site?  
 11:33:37 9 MR. EDDY: Objection to form.  
 11:33:37 10 THE WITNESS: Twice a week.  
 11:33:38 11 BY MR. ROMINE:  
 11:33:39 12 Q. Okay. All right. I'm going to  
 11:33:44 13 move on now. Are you familiar with the  
 11:33:50 14 University of Dayton?  
 11:33:51 15 A. Yes.  
 11:33:51 16 Q. Was the University of Dayton a  
 11:33:53 17 customer of the South Dayton Dump?  
 11:34:05 18 A. I don't remember. I'm -- I don't  
 11:34:13 19 remember right now.  
 11:34:13 20 Q. Okay. No problem.  
 11:34:16 21 MR. ROMINE: Let's take a ten minute  
 11:34:17 22 break. I'm going to -- we're close to getting  
 11:34:20 23 done. I'm just going to look at my outline and  
 11:34:23 24 see -- see where we are.  
 11:34:29 25 (Pause in proceedings.)

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11:54:29 1 MR. ROMINE: So we'll go back on the  
 11:51:33 2 record.  
 11:51:33 3 BY MR. ROMINE:  
 11:51:39 4 Q. Mr. Grillo, before the break, I  
 11:51:42 5 had asked you about the University of Dayton.  
 11:51:44 6 A. I was just going to say something  
 11:51:48 7 to you about that.  
 11:51:48 8 Q. Go ahead.  
 11:51:49 9 A. That, and the Peerless Company you  
 11:51:52 10 were talking about --  
 11:51:52 11 Q. Right.  
 11:51:53 12 A. -- I was sitting out there in that  
 11:51:57 13 room over there -- which one you want me to go  
 11:52:01 14 first?  
 11:52:01 15 Q. Either one.  
 11:52:03 16 A. Peerless will be short. It -- I  
 11:52:08 17 believe Peerless was like a moving industrial  
 11:52:09 18 machinery -- I think they were kind of like a  
 11:52:11 19 moving thing.  
 11:52:13 20 Q. Okay.  
 11:52:13 21 A. And I believe they brought a lot  
 11:52:16 22 of wood, like crates where they would -- and  
 11:52:23 23 pallets and stuff like that, wood products.  
 11:52:23 24 Q. Okay.  
 11:52:24 25 A. But other than that, I don't --

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11:52:24 1 it's just -- came back up, so --  
 11:52:28 2 Q. No problem. And so I take it what  
 11:52:34 3 you're telling me is Peerless was a customer of  
 11:52:38 4 the South Dayton Dump?  
 11:52:39 5 A. Um-hum.  
 11:52:39 6 Q. And did they have their own  
 11:52:41 7 trucks?  
 11:52:43 8 A. I don't remember.  
 11:52:43 9 Q. Okay. And can you remember  
 11:52:46 10 anything in their waste other than the pallets?  
 11:52:52 11 A. A straw like material, like hay,  
 11:52:57 12 but I think it was like a packaging stuff.  
 11:53:00 13 Q. Okay. And how were the --  
 11:53:05 14 focusing on Peerless now, for the pallets,  
 11:53:07 15 where were they disposed of those?  
 11:53:09 16 A. Up on the top tier.  
 11:53:10 17 Q. Same as the other pallets you were  
 11:53:13 18 talking about earlier?  
 11:53:14 19 A. Um-hum.  
 11:53:14 20 Q. And how about this packaging  
 11:53:16 21 material?  
 11:53:17 22 A. It was pretty flammable, so we  
 11:53:19 23 pretty much took it down to the bury pile,  
 11:53:23 24 which would be the third tier.  
 11:53:24 25 Q. Okay. Is it your memory that this

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11:53:27 1 was a natural material, like a grass or a hay  
 11:53:30 2 that was cut and used?  
 11:53:31 3 A. Yeah, something of that nature.  
 11:53:33 4 Q. It was natural? Okay. Other than  
 11:53:35 5 the -- the -- the packaging material and the  
 11:53:41 6 pallets, can you remember seeing anything else  
 11:53:43 7 coming from Peerless?  
 11:53:45 8 A. Well, a lot of times there would  
 11:53:47 9 be like boxes of nuts and bolts, because I --  
 11:53:52 10 anything like that, I had to take up to the  
 11:53:54 11 office for -- Kenny took the stuff and did  
 11:53:57 12 something with them, took them home or  
 11:54:00 13 something, and -- or would use them around the  
 11:54:01 14 dump for various tasks, but --  
 11:54:05 15 Q. Okay. So those would go  
 11:54:06 16 basically --  
 11:54:07 17 A. To the office.  
 11:54:08 18 Q. -- to the office?  
 11:54:09 19 A. (Nodding head up and down.)  
 11:54:09 20 Q. Anything else from Peerless?  
 11:54:11 21 A. No, I don't --  
 11:54:13 22 Q. That's fine. I'm just asking you  
 11:54:15 23 what you can remember.  
 11:54:16 24 A. Yeah.  
 11:54:16 25 Q. And when do you first remember

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11:54:18 1 Peerless -- waste from Peerless coming to the  
 11:54:22 2 site?  
 11:54:23 3 A. I would say early '70s.  
 11:54:24 4 Q. Okay. And you had mentioned the  
 11:54:31 5 University of Dayton?  
 11:54:32 6 A. Yes.  
 11:54:33 7 MR. HAUGHEY: I'm going to object  
 11:54:34 8 because these are all asked and answered  
 11:54:37 9 questions.  
 11:54:37 10 BY MR. ROMINE:  
 11:54:37 11 Q. What can you tell me about the  
 11:54:39 12 University of Dayton?  
 11:54:41 13 A. Well, it's really in depth, so  
 11:54:43 14 I -- and, you know, sitting out there, I have  
 11:54:47 15 a -- I've tried to forget about University of  
 11:54:50 16 Dayton because I've had a bad dealing with  
 11:54:52 17 them, and -- and, you know, so I had to sit out  
 11:54:56 18 there and make the distinction what I was angry  
 11:54:58 19 about and what I remember.  
 11:54:59 20 Q. Fair enough. Let's -- let me do  
 11:55:01 21 it this way: Let me just ask you about what  
 11:55:04 22 you remember, and if you're able to answer, go  
 11:55:06 23 ahead and answer. Was the University of Dayton  
 11:55:09 24 a customer of the South Dayton Dump?  
 11:55:11 25 A. I believe so.

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11:55:12 1 Q. And what kind of -- what stuff did  
 11:55:12 2 University of Dayton bring?  
 11:55:17 3 MR. HAUGHEY: Objection as to form.  
 11:55:18 4 THE WITNESS: Because my dad was a  
 11:55:25 5 devout Catholic and had a lot of dealings with the  
 11:55:27 6 University of Dayton and with various churches.  
 11:55:33 7 the bishop and archbishops, they -- we'd go to  
 11:55:37 8 Cincinnati and do various things, but I think it  
 11:55:40 9 mainly was like athlete stuff, some metal  
 11:55:43 10 products, some wood, like benches and stuff like  
 11:55:47 11 that. Sometimes poles that had lights on them,  
 11:55:52 12 things like -- of that nature.  
 11:55:54 13 Q. And where was this waste disposed  
 11:55:57 14 of?  
 11:55:58 15 MR. HAUGHEY: Objection as to form.  
 11:56:01 16 THE WITNESS: Metal would go in the  
 11:56:02 17 metal pile. Wood would go -- if it wasn't skids,  
 11:56:05 18 then it would go down in the burnable, which was  
 11:56:09 19 the third tier -- or second tier, I'm sorry, and  
 11:56:14 20 that sort of thing.  
 11:56:16 21 Some -- there were some books, I  
 11:56:19 22 think, if I remember, they had stamped somewhere  
 11:56:21 23 in the book. A couple -- because I think Kenny  
 11:56:25 24 took one. I think it was like a index card thing.  
 11:56:28 25 it was a wooden thing that came -- that you'd look

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11:56:34 1 up books or something like that.  
 11:56:38 2 BY MR. ROMINE:  
 11:56:35 3 Q. Like you might see in a library?  
 11:56:37 4 A. Yeah, um-hum.  
 11:56:38 5 Q. And where was that disposed of?  
 11:56:40 6 A. Kenny --  
 11:56:49 7 MR. HAUGHEY: Objection as to form.  
 11:56:43 8 THE WITNESS: Kenny took it home with  
 11:56:43 9 him.  
 11:56:44 10 BY MR. ROMINE:  
 11:56:44 11 Q. And when you say the books were  
 11:56:48 12 stamped, what did the stamp say?  
 11:56:49 13 MR. HAUGHEY: Objection. Leading.  
 11:56:51 14 THE WITNESS: I don't remember right  
 11:56:52 15 now.  
 11:56:53 16 BY MR. ROMINE:  
 11:56:52 17 Q. Okay. And when do you remember  
 11:56:54 18 the first time or the earliest time you saw  
 11:56:59 19 waste from the University of Dayton come in?  
 11:57:01 20 MR. HAUGHEY: Objection as to form.  
 11:57:02 21 THE WITNESS: '60s.  
 11:57:04 22 BY MR. ROMINE:  
 11:57:04 23 Q. Now, you had mentioned the  
 11:57:08 24 University of Dayton and Peerless. Did you and  
 11:57:12 25 I just have a discussion about them or is this

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11:57:15 1 something you remembered by yourself?  
 11:57:16 2 A. No, like I said, I went out there  
 11:57:17 3 because, like I said, I have a very upset  
 11:57:20 4 feeling about University of Dayton, and so it's  
 11:57:25 5 hard to remember what -- you know.  
 11:57:28 6 Q. Okay. But you told me what you  
 11:57:32 7 remembered about the University of Dayton here  
 11:57:33 8 just now?  
 11:57:32 9 A. Pardon me?  
 11:57:32 10 Q. You told me about --  
 11:57:35 11 A. Yeah. Yes.  
 11:57:35 12 Q. -- about the waste --  
 11:57:36 13 A. Yes. Yes. Yes.  
 11:57:37 14 Q. Okay. Just a couple of follow-up  
 11:57:40 15 questions. Towards -- right before the break,  
 11:57:50 16 I had asked you about Reynolds and Reynolds.  
 11:57:52 17 A. Um-hum.  
 11:57:52 18 Q. And what I wanted to ask you is,  
 11:57:54 19 how frequently did waste come from Reynolds and  
 11:57:58 20 Reynolds to the dump?  
 11:57:58 21 MR. MCCALL: Object to form.  
 11:58:00 22 THE WITNESS: Once a month.  
 11:58:02 23 BY MR. ROMINE:  
 11:58:02 24 Q. The same question, Pittsburgh  
 11:58:04 25 Paint, how frequently did you see waste come

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11:58:06 1 from -- to the site from Pittsburgh Paint?  
 11:58:08 2 A. A couple times a month.  
 11:58:09 3 Q. A couple times a month?  
 11:58:12 4 A. Um-hum.  
 11:58:12 5 Q. Okay.  
 11:58:14 6 A. Now, it depended on what season,  
 11:58:16 7 you know. They were real busy, spring and  
 11:58:19 8 summer, but fall and winter was pretty slow.  
 11:58:23 9 Q. Earlier this morning I had asked  
 11:58:35 10 you about a couple guys, Larry Brandon and Bob  
 11:58:41 11 Aldridge.  
 11:58:41 12 A. Right.  
 11:58:43 13 Q. And you said that they were -- you  
 11:58:46 14 thought they were in business together.  
 11:58:48 15 A. I know they were in business  
 11:58:49 16 together.  
 11:58:49 17 Q. You know they were in business  
 11:58:51 18 together.  
 11:58:51 19 A. Yeah.  
 11:58:51 20 Q. And Container Services was the  
 11:58:55 21 name of their company or the name of one of  
 11:58:55 22 their companies?  
 11:58:55 23 A. Yes.  
 11:58:59 24 MR. HARBECK: Object to the form.  
 11:58:59 25 MR. HAUGHEY: Objection. Leading.

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11:58:58 1 too.

11:59:58 2 BY MR. ROMINE:

11:59:01 3 Q. I'm going to ask you a couple more

11:59:03 4 companies. Do you remember the name of a

11:59:05 5 company called General Refuse or General

11:59:07 6 Refuge?

11:59:07 7 A. Right.

11:59:08 8 Q. Was that company, in your memory,

11:59:13 9 also a company that was owned or controlled by

11:59:15 10 Mr. Brandon and Mr. Aldridge?

11:59:16 11 MR. HARBECK: Object to the form.

11:59:17 12 THE WITNESS: Remember I told you

11:59:19 13 they were a suburb type of thing?

11:59:23 14 BY MR. ROMINE:

11:59:23 15 Q. But, again --

11:59:24 16 A. That was part of -- yeah.

11:59:25 17 Q. It was part of Mr. Brandon's and

11:59:27 18 Aldridge's businesses?

11:59:27 19 A. Correct.

11:59:29 20 MR. HARBECK: Object to the form.

11:59:29 21 BY MR. ROMINE:

11:59:30 22 Q. Different -- slightly different

11:59:32 23 name, General Sanitation, do you remember that

11:59:34 24 name?

11:59:34 25 A. Yeah.

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11:59:34 1 Q. And was that also a company

11:59:36 2 associated with Mr. Brandon and Mr. Aldridge?

11:59:39 3 MR. HARBECK: Object to the form.

11:59:40 4 THE WITNESS: Yes.

11:59:40 5 BY MR. ROMINE:

11:59:40 6 Q. Okay.

11:59:42 7 A. Well, I think the General

11:59:44 8 Sanitation -- at the end of -- I think it was

11:59:47 9 the '70s, Larry and Bob had talked about

11:59:53 10 selling the company to some outfit in Chicago,

11:59:57 11 and that -- they got all us employees and told

12:00:01 12 them that very soon we might be under new

12:00:06 13 management, that Larry was still going to be

12:00:08 14 head of the operation here in Dayton and -- but

12:00:13 15 I quit before I think it happened, so -- but I

12:00:18 16 heard eventually they were bought out, because

12:00:20 17 that's when Larry then went totally to the

12:00:22 18 Dayton Fiber and --

12:00:24 19 Q. Okay. All right.

12:00:27 20 MR. HARBECK: I move to strike.

12:00:29 21 Nonresponsive.

12:00:31 22 MR. ROMINE: Okay. I think that's

12:00:32 23 all I have. Thank you. So are we ready for a

12:00:36 24 lunch break, come back at one o'clock? Okay.

12:00:42 25 Thank you.

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1 (Thereupon, the proceedings were

2 adjourned for lunch.)

3 MR. HAUGHEY: I guess we're back on.

4 CROSS-EXAMINATION

5 BY MR. HAUGHEY:

13:00:48 6 Q. Okay. Mr. -- would you pronounce

13:00:53 7 your last name, please?

13:00:54 8 A. Like grill E O.

13:00:57 9 Q. Grillot?

13:00:58 10 A. Grillot.

13:00:59 11 Q. Even though there's no I O T,

13:01:00 12 correct?

13:01:00 13 A. No.

13:01:01 14 Q. Okay. Thank you. I just wanted

13:01:03 15 to make sure I get it -- I get it right, and --

13:01:03 16 but there's no I in it?

13:01:05 17 A. No.

13:01:05 18 Q. Okay.

13:01:06 19 A. The T is silent.

13:01:08 20 Q. Grillot. Okay. Thank you. My

13:01:10 21 name is Steve Haughey. I'm representing some

13:01:13 22 of the defendants in this case, and I want to

13:01:17 23 ask you some questions about your testimony and

13:01:21 24 some related items.

13:01:23 25 A. Okay.

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13:01:23 1 Q. Are you represented by counsel --

13:01:27 2 by legal counsel for this deposition?

13:01:29 3 A. No. No.

13:01:30 4 Q. Okay. So you're not represented

13:01:31 5 by the plaintiffs or their lawyers, correct?

13:01:34 6 A. No.

13:01:34 7 Q. Okay. Are you being paid to

13:01:40 8 appear here today to give testimony?

13:01:44 9 A. No.

13:01:44 10 Q. Are you being reimbursed any

13:01:47 11 expenses for your testimony?

13:01:49 12 A. No.

13:01:49 13 Q. Did you drive up from North

13:01:55 14 Carolina for your testimony?

13:01:56 15 A. Not this time, but I did

13:01:58 16 originally, yes.

13:01:59 17 Q. Okay. You mean -- by originally,

13:02:01 18 do you mean back when your deposition was taken

13:02:03 19 in 2012?

13:02:08 20 A. Correct, um-hum.

13:02:08 21 Q. Okay. Okay. Where did you

13:02:07 22 drive -- where did you come from for purposes

13:02:10 23 of the deposition today?

13:02:11 24 A. Local. Dayton.

13:02:16 25 Q. Okay. Are you staying with

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13:02:18 1 someone in Dayton?

13:02:20 2 A. I have a -- a girl friend, she's

13:02:24 3 just a friend, and I stay with her when --

13:02:28 4 sometimes and sometimes I go different places.

13:02:34 5 Q. Okay.

13:02:37 6 A. Kind of homeless, but --

13:02:39 7 Q. Okay. Do you have relatives in

13:02:42 8 Dayton?

13:02:42 9 A. Yes, all my family is from Dayton.

13:02:45 10 I have a daughter in Atlanta.

13:02:47 11 Q. Okay. Who are your relatives in

13:02:50 12 Dayton?

13:02:50 13 A. That's left?

13:02:51 14 Q. Yeah. Who are the relatives who

13:02:53 15 are still alive in Dayton?

13:02:54 16 A. David Grillot is a cousin.

13:03:00 17 Q. Anyone else?

13:03:01 18 A. My brother and my ex-wife. I got

13:03:11 19 two sons, which is Sean and Eddie.

13:03:18 20 Q. Did you say a brother is here in

13:03:21 21 Dayton?

13:03:22 22 A. Yeah, his name is John.

13:03:23 23 Q. Who is that? John?

13:03:24 24 A. Um-hum.

13:03:26 25 Q. Okay. If -- if me or some of the

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13:03:32 1 other defense counsel want to get in touch with

13:03:38 2 you, what's the best way to reach you?

13:03:39 3 A. Probably my cell phone.

13:03:40 4 Q. Okay. What is your cell phone

13:03:42 5 number?

13:03:44 6 A. 828 is the area code.

13:03:45 7 Q. 828.

13:03:47 8 A. 226-3388.

13:03:51 9 Q. Is that down in Snow Hill, North

13:03:54 10 Carolina?

13:03:54 11 A. Actually I got -- that particular

13:03:57 12 phone in -- close to Ashville. It would be

13:04:00 13 Franklin, North Carolina.

13:04:02 14 Q. Is there anyone in Dayton we would

13:04:08 15 contact if we needed to get ahold of you and we

13:04:13 16 could not get you by cell phone?

13:04:18 17 A. Probably Donna Moeller.

13:04:17 18 Q. Is that the friend you

13:04:19 19 mentioned --

13:04:19 20 A. Right.

13:04:20 21 Q. -- you were saying with?

13:04:20 22 A. Um-hum.

13:04:20 23 Q. How do you spell her last name?

13:04:20 24 A. M O E L L E R.

13:04:24 25 Q. And what's her telephone number?

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13:04:38 1 A. 937-308-0501.

13:04:38 2 Q. Okay. How did you first find out

13:04:47 3 that you were being asked to come up here and

13:04:48 4 give a deposition today?

13:04:51 5 A. I had received a phone call from

13:04:52 6 Donna, she was still up here in Dayton, and

13:04:56 7 said a gentleman wanted -- or came to her

13:05:01 8 apartment and was looking for me and that he

13:05:04 9 was standing there, so she handed the phone to

13:05:08 10 me, and that was the first I heard of it.

13:05:09 11 Q. Okay. How long had you been in

13:05:11 12 Dayton at the time the call came in to Donna

13:05:15 13 asking you to appear again for a deposition?

13:05:17 14 A. I was still in North Carolina,

13:05:21 15 Snow Hill --

13:05:21 16 Q. Okay.

13:05:23 17 A. -- North Carolina.

13:05:23 18 MR. ROMINE: Objection.

13:05:23 19 Mischaracterizes the testimony. Beyond the scope

13:05:25 20 of the direct testimony. Beyond -- beyond the

13:05:33 21 scope of the judge's order.

13:05:36 22 THE WITNESS: Do I go -- go on?

13:05:36 23 BY MR. HAUGHEY:

13:05:36 24 Q. Yes, go ahead. You can -- unless

13:05:39 25 there's a -- some reason to ask you to not

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13:05:42 1 respond, these will be objections and you can

13:05:44 2 go ahead and answer and then we'll just move

13:05:46 3 on, okay?

13:05:47 4 A. Okay.

13:05:49 5 Q. Go ahead.

13:05:49 6 A. As I say, I had been staying that

13:05:51 7 whole winter. Actually I think I been there --

13:05:55 8 I was there about a year and a half and -- when

13:05:58 9 I got the phone call. I think that was March

13:06:00 10 or April.

13:06:05 11 MR. HARBECK: Hey, Steve?

13:06:05 12 MR. HAUGHEY: Yes.

13:06:05 13 MR. HARBECK: Bill Harbeck. Just to

13:06:06 14 clarify, is he talking about the first deposition

13:06:08 15 or the second, this deposition?

13:06:10 16 BY MR. HAUGHEY:

13:06:10 17 Q. Yeah. For purposes of this

13:06:12 18 deposition, where were you when you found out

13:06:16 19 that you were being asked to appear here today

13:06:18 20 to give another deposition?

13:06:23 21 A. Here in Dayton.

13:06:25 22 Q. And were you staying with Donna

13:06:26 23 when you found out?

13:06:27 24 A. Yes.

13:06:27 25 Q. Okay. And did you -- did I hear

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13:06:32 1 you correctly, someone called her to raise the  
13:06:35 2 request with her and then she told you, is that  
13:06:38 3 what you said?

13:06:38 4 A. No, the -- the first time that --  
13:06:43 5 a gentleman that works, I think with the  
13:06:47 6 attorneys that are handling this case, Bill, I  
13:06:52 7 don't know his last name, but Bill and I had  
13:06:54 8 been in contact whenever the firm needed to ask  
13:06:59 9 me a question or -- and he called me and said  
13:07:02 10 that, you know, there was a deposition coming  
13:07:05 11 up and it was, I think, the 16th or 19th of  
13:07:09 12 this month.

13:07:10 13 And so then when I -- my health  
13:07:13 14 started deteriorating, I wasn't sure what was  
13:07:17 15 going to happen, so they tried to -- I think  
13:07:19 16 they tried to up it up closer to the beginning  
13:07:22 17 of the month, I think, and then it turned back  
13:07:25 18 to today.

13:07:26 19 Q. Okay. Is that gentleman, Bill, is  
13:07:28 20 his last name Walsh?

13:07:31 21 A. I think so, yeah.

13:07:32 22 Q. Would he be the same person who  
13:07:35 23 contacted you for purposes of the first  
13:07:38 24 deposition last year?

13:07:40 25 A. Correct.

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13:07:40 1 Q. Okay. Thank you. Now, you're not  
13:07:43 2 appearing here pursuant to a subpoena, correct?

13:07:45 3 A. No.

13:07:46 4 Q. Okay. So you're appearing here  
13:07:50 5 voluntarily?

13:07:51 6 A. Correct.

13:07:51 7 Q. But you're not being paid,  
13:07:53 8 correct?

13:07:53 9 A. No.

13:07:54 10 Q. Why are you appearing voluntarily  
13:07:57 11 and without being paid?

13:07:58 12 A. You really want to know?

13:07:59 13 Q. Yeah.

13:08:02 14 A. I -- I'm not a -- what you call a  
13:08:07 15 Christian or anything like that, but I believe  
13:08:09 16 from what I did read that, one passage says  
13:08:14 17 he's going to put the ruin to the ones that  
13:08:16 18 ruin the earth.

13:08:17 19 I feel guilty in a lot of ways  
13:08:19 20 that my family had a landfill, and doing a lot  
13:08:23 21 of research, I know it's part of the Agenda 21  
13:08:27 22 issue, and that one of the agendas is to clean  
13:08:30 23 up this earth.

13:08:32 24 So I think it's to clear a  
13:08:36 25 conscience, plus do my duty as a human being on

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13:08:38 1 this earth to do what's right.

13:08:42 2 Q. Okay. Did you meet with anyone  
13:08:45 3 before today's deposition to discuss your  
13:08:47 4 testimony today?

13:08:49 5 A. Did I meet with anybody?

13:08:50 6 Q. Yes.

13:08:53 7 A. Yes.

13:08:58 8 Q. Who did you meet with?

13:08:57 9 A. Bill.

13:08:59 10 Q. Okay. When did you meet with him?

13:09:01 11 A. It would have been Sunday about  
13:09:05 12 four o'clock.

13:09:06 13 Q. Where did you meet him?

13:09:09 14 A. The motel -- hotel I'm staying at.

13:09:12 15 Q. Okay. Well, I'm confused. I  
13:09:14 16 thought you had testified earlier that you were  
13:09:16 17 saying with Donna Moeller --

13:09:18 18 A. Right.

13:09:18 19 Q. -- and not a hotel.

13:09:20 20 A. Well, because of money issues, you  
13:09:24 21 know, I'm having trouble paying her for the  
13:09:26 22 rent, and so it was two days or one day I  
13:09:29 23 thought that I wouldn't have to pay, so --

13:09:32 24 Q. Okay. How long did you meet with  
13:09:34 25 Bill Walsh on Sunday?

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13:09:38 1 A. Roughly probably an hour. He  
13:09:40 2 got -- he got there like three and he had -- he  
13:09:46 3 said he had something else to do, and so I  
13:09:48 4 drove down after watching the football game  
13:09:50 5 and -- and got there at the motel room and we  
13:09:55 6 got our rooms and went down and ate, and I  
13:10:00 7 think that was -- you know, it was probably an  
13:10:02 8 hour, hour and a half at the most.

13:10:03 9 Q. Okay. What did you talk about?  
13:10:09 10 Let me be more specific. Did you go over  
13:10:09 11 the --

13:10:10 12 A. Mostly the ballgame.

13:10:11 13 Q. Did you go over the names of  
13:10:13 14 customers of the landfill?

13:10:13 15 A. Oh, no. No.

13:10:15 16 Q. Okay. Well, you -- I believe you  
13:10:16 17 testified you talked for an hour and a half, so  
13:10:18 18 what was the conversation about?

13:10:21 19 A. Football game, women and our  
13:10:25 20 weathers. Wanted to know how my job -- or what  
13:10:28 21 was going on with work and personal stuff.

13:10:30 22 Q. Okay. So isn't Mr. Walsh an  
13:10:33 23 investigator working for the plaintiffs' law  
13:10:37 24 firm?

13:10:37 25 A. Yes.

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13:10:38 1 Q. Okay. So I'm confused. He took  
 13:10:42 2 an hour and a half out of his schedule on  
 13:10:44 3 Sunday to meet with you to not talk at all  
 13:10:47 4 about your upcoming deposition?  
 13:10:50 5 A. Well, I -- I don't think he's  
 13:10:54 6 actually -- I think he found me and the  
 13:10:57 7 attorneys, Larry and -- and whoever else is in  
 13:11:01 8 this, I would talk to them about subjects, you  
 13:11:04 9 know, on -- you know, that we're talking about.  
 13:11:09 10 Q. Okay. Did he give you any  
 13:11:10 11 documents to review for purposes of your  
 13:11:12 12 testimony today?  
 13:11:14 13 A. No.  
 13:11:14 14 Q. Okay. Did he ask you to re-review  
 13:11:19 15 your 2012 deposition?  
 13:11:19 16 A. No.  
 13:11:20 17 Q. Did you read that deposition  
 13:11:23 18 again?  
 13:11:23 19 A. No, because I don't have it.  
 13:11:24 20 Q. You have no copy of the 2012  
 13:11:29 21 deposition, correct?  
 13:11:30 22 A. No, because I told Bill that I --  
 13:11:32 23 or -- or Dave, one, that -- that I had either  
 13:11:37 24 lost it or I thought I sent it back to his  
 13:11:40 25 firm. I can't remember why, but I couldn't

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13:11:42 1 find it.  
 13:11:43 2 I looked everywhere, but I'm in so  
 13:11:48 3 many different locations, and it might be in a  
 13:11:49 4 box somewhere, but --  
 13:11:50 5 Q. Okay. Were you asked to read  
 13:11:51 6 anything for purposes of your deposition today?  
 13:11:52 7 A. Pardon me?  
 13:11:53 8 Q. Were you asked to read anything  
 13:11:56 9 for purposes of your deposition today?  
 13:11:57 10 A. No.  
 13:11:58 11 Q. Were you shown any documents of  
 13:12:00 12 any kind --  
 13:12:01 13 A. No.  
 13:12:01 14 Q. -- by Mr. Walsh?  
 13:12:02 15 A. No.  
 13:12:03 16 Q. Did you have any calls or meetings  
 13:12:06 17 with anyone else, other than Mr. Walsh, to  
 13:12:10 18 discuss today's deposition?  
 13:12:11 19 A. No.  
 13:12:11 20 Q. You did not talk with Mr.  
 13:12:14 21 Silver --  
 13:12:14 22 A. No, I --  
 13:12:16 23 Q. -- for this -- for purposes of  
 13:12:17 24 today's deposition?  
 13:12:18 25 A. No.

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13:12:18 1 Q. Okay. And did you talk with Mr.  
 13:12:19 2 Romine?  
 13:12:20 3 A. No.  
 13:12:20 4 Q. Okay. Thank you. Now, when you  
 13:12:27 5 gave the deposition in 2012, were you  
 13:12:28 6 represented by legal counsel in that  
 13:12:31 7 deposition?  
 13:12:32 8 A. No.  
 13:12:33 9 Q. Okay. Did you meet with -- it's  
 13:12:41 10 true that you met with Mr. Silver and Mr. Walsh  
 13:12:43 11 for preparation purposes for that deposition,  
 13:12:45 12 correct?  
 13:12:48 13 A. I don't think I -- we prepped  
 13:12:51 14 anything. It was just they -- I didn't know  
 13:12:54 15 where the place was, so Bill picked me up.  
 13:12:58 16 When I got there, Larry and some  
 13:12:59 17 other woman was there, and he just said are you  
 13:13:03 18 ready to go, and -- and pretty much said -- I  
 13:13:07 19 was real kind of nervous, and so they assured  
 13:13:11 20 me everything would be okay, just tell them  
 13:13:14 21 what I knew and that was it.  
 13:13:15 22 Q. When you gave the deposition in  
 13:13:17 23 April of 2012 -- do you remember that?  
 13:13:20 24 A. Yeah.  
 13:13:20 25 Q. Do you remember whether you were

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13:13:23 1 shown a list of names of potential customers of  
 13:13:24 2 the landfill before the deposition was taken?  
 13:13:28 3 A. No, because he -- he did -- Larry  
 13:13:32 4 did like Dave just did, read them in lists and  
 13:13:37 5 wanted to know if I remembered them.  
 13:13:40 6 Q. Okay. So before the April, 2012,  
 13:13:43 7 deposition, you were not provided a list, but  
 13:13:46 8 you were read names off of a list --  
 13:13:46 9 A. No.  
 13:13:49 10 Q. -- is that correct?  
 13:13:49 11 A. Yes. Yes.  
 13:13:51 12 Q. Okay. And was that for purposes  
 13:13:53 13 of asking you if you remembered whether a  
 13:13:57 14 particular customer used the landfill?  
 13:13:58 15 A. Correct.  
 13:13:59 16 Q. Have any of the plaintiffs in this  
 13:14:08 17 case or their lawyers ever indicated to you  
 13:14:11 18 that it was in your best interest to identify  
 13:14:14 19 as many customers as possible using the  
 13:14:17 20 landfill?  
 13:14:17 21 A. No.  
 13:14:17 22 Q. Okay. Did you --  
 13:14:20 23 MR. COUGHLIN: What was the -- I  
 13:14:20 24 couldn't hear the answer.  
 13:14:20 25 BY MR. HAUGHEY:

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13:14:22 1 Q. Do you want to repeat the answer,  
13:14:24 2 please?  
13:14:24 3 A. No.  
13:14:25 4 Q. Okay. Has anyone else ever told  
13:14:27 5 you that it was in your best interests to  
13:14:30 6 remember as many users of the landfill as  
13:14:33 7 possible?  
13:14:33 8 A. No.  
13:14:33 9 Q. Okay. Were you part of a  
13:14:34 10 settlement with Ohio EPA or US EPA regarding  
13:14:43 11 your family's alleged liability at this site?  
13:14:44 12 A. I don't understand -- I don't  
13:14:45 13 understand the question.  
13:14:46 14 Q. Did you sign any settlements with  
13:14:49 15 Ohio EPA or US EPA in order to obtain your  
13:14:51 16 inheritance from your father?  
13:14:54 17 A. Well, it wasn't to inherit -- get  
13:14:55 18 the inheritance, it was to release us of -- we  
13:15:00 19 had to pay a large sum of money, and it was  
13:15:04 20 kind of split between the Boesch's, my stepmom  
13:15:09 21 and the siblings of my dad, and that would  
13:15:12 22 release us from any further legal aspects of  
13:15:19 23 it. Yeah, I do -- I do remember that.  
13:15:20 24 Q. Okay. And did you sign that  
13:15:21 25 agreement?

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13:15:22 1 A. Yes, I did.  
13:15:22 2 Q. Did the -- do you have a copy of  
13:15:24 3 the agreement?  
13:15:28 4 A. And, again, I do, but -- I know I  
13:15:28 5 got that, but I don't know where it is.  
13:15:31 6 Q. Do you know if you provided a copy  
13:15:32 7 of that agreement to counsel for plaintiffs?  
13:15:37 8 A. They didn't ask me for it, so --  
13:15:39 9 Q. Okay. Do you know if that  
13:15:40 10 agreement required, as a condition of your  
13:15:44 11 release, that you cooperate in future  
13:15:48 12 proceedings regarding this site?  
13:15:49 13 A. No, I don't think so.  
13:15:50 14 Q. Okay.  
13:15:54 15 A. Because that -- I think that's  
13:15:58 16 what the release form was doing, we wouldn't  
13:15:58 17 have to get involved in anything prior to that  
13:16:03 18 signature.  
13:16:03 19 Q. When you drove up for your April,  
13:16:06 20 2012, deposition from North Carolina, do you  
13:16:10 21 remember that?  
13:16:10 22 A. Yes.  
13:16:10 23 Q. Okay. Were you paid for mileage  
13:16:12 24 for that deposition?  
13:16:13 25 A. Yes.

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13:16:13 1 Q. Who paid you for that?  
13:16:15 2 A. I'm not -- Bill is actually the  
13:16:19 3 one that gave me a check, but I think -- I  
13:16:22 4 don't know who -- you know, if it came from  
13:16:25 5 Larry or who it came from.  
13:16:26 6 Q. Okay. Were you paid for a hotel  
13:16:28 7 as well?  
13:16:29 8 A. No.  
13:16:29 9 Q. Were you paid for food?  
13:16:30 10 A. No.  
13:16:30 11 Q. Were you served a subpoena or did  
13:16:32 12 you come up voluntarily?  
13:16:34 13 A. I came up voluntarily.  
13:16:34 14 Q. So to the best of your  
13:16:38 15 recollection, you can only remember paying  
13:16:39 16 for -- being paid for mileage?  
13:16:41 17 A. Right.  
13:16:41 18 Q. Okay. Let's talk a little bit  
13:16:47 19 about your health. Do you know that your  
13:17:01 20 deposition today is being taken to preserve  
13:17:04 21 your testimony because of a concern by  
13:17:08 22 plaintiffs that you have serious health  
13:17:11 23 conditions?  
13:17:11 24 A. Right.  
13:17:12 25 Q. Are you presently on any

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13:17:17 1 medications now?  
13:17:18 2 A. Yes.  
13:17:18 3 Q. Okay. Could you tell us what  
13:17:20 4 those medications are, please?  
13:17:21 5 A. I take Trazodone, a hundred  
13:17:25 6 milligram, at bedtime for sleep, and I take  
13:17:28 7 what's called Tramadol, 50 milligram, for my  
13:17:35 8 arthritis and my joints. That's it.  
13:17:42 9 Q. Do you take any medications for  
13:17:46 10 any mood swings or bipolar conditions?  
13:17:49 11 A. I had for a while. I think I  
13:17:51 12 started when -- I think '08 and then I weaned  
13:17:57 13 myself off of them, so --  
13:18:00 14 Q. By '08, do you mean 2008?  
13:18:02 15 A. Yeah, 2008.  
13:18:04 16 Q. Have you -- have you been  
13:18:08 17 diagnosed with any life-threatening conditions  
13:18:08 18 that you know of?  
13:18:13 19 MR. ROMINE: Objection. Calls for  
13:18:14 20 opinion.  
13:18:14 21 THE WITNESS: No.  
13:18:14 22 BY MR. HAUGHEY:  
13:18:14 23 Q. To the best of your knowledge,  
13:18:17 24 have you been diagnosed by a doctor with any  
13:18:21 25 terminal condition?

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13:18:23 1 A. No, but I -- I feel it. I feel  
13:18:27 2 like I'm dying, you know. I have really hard  
13:18:30 3 times dealing with some of it, so I don't know  
13:18:33 4 what it is, and I don't have the money or the  
13:18:35 5 means to have it all checked out, so --

13:18:37 6 Q. The medication that you discussed  
13:18:41 7 about taking for sleep, do you take that every  
13:18:44 8 night?

13:18:44 9 A. Yes, um-hum.

13:18:47 10 Q. Okay. You cannot sleep without  
13:18:49 11 it?

13:18:50 12 A. I can sleep, but I wake up. If I  
13:18:53 13 have to go to the bathroom, I have a hard time  
13:18:54 14 going back to sleep, so it pretty much keeps me  
13:18:59 15 rested through the night.

13:19:01 16 Q. Okay. Are you on any medications  
13:19:07 17 for your pancreas?

13:19:10 18 A. Yes.

13:19:11 19 Q. Okay. What is the condition  
13:19:13 20 there?

13:19:13 21 A. Oh, I thought you was going to ask  
13:19:15 22 me the name of it, and I -- it seems to  
13:19:20 23 diminish the pressure or whatever goes on when  
13:19:23 24 I feel a real tightness for -- I thought it was  
13:19:28 25 something else, and -- and -- with the

13:19:31 1 breathing, I can't remember the name of the  
13:19:33 2 organ but I always thought it was that, but  
13:19:34 3 when they finally found it was the pancreas and  
13:19:39 4 where it was located, I realized that was  
13:19:43 5 probably the source.

13:19:48 6 Q. Has that medication helped the  
13:19:49 7 pancreatitis?

13:19:48 8 A. A little bit, yeah.

13:19:50 9 Q. Okay. Do you have any income to  
13:19:57 10 pay for the medications that you're currently  
13:19:59 11 taking?

13:20:02 12 A. I -- you know, I do some -- I'm  
13:20:04 13 helping the doctor out right now remodel his  
13:20:07 14 bathroom, so -- and that gives me a little  
13:20:13 15 money to pay my phone, get my -- pay for my  
13:20:16 16 insurance -- car insurance and --

13:20:17 17 Q. When you -- by referencing the  
13:20:19 18 doctor, are you talking about the doctor that  
13:20:21 19 made your diagnosis?

13:20:22 20 A. No. No.

13:20:22 21 Q. Okay. It's a different doctor,  
13:20:23 22 correct?

13:20:23 23 A. Correct.

13:20:24 24 Q. Okay. I'm going to go through a  
13:20:32 25 series of names that I have seen associated in

13:20:36 1 one form or another with the landfill, and what  
13:20:38 2 I'd like you to do with each name is tell me,  
13:20:40 3 do you remember them, okay? Do you remember  
13:20:43 4 what their connection was to the landfill.  
13:20:44 5 Whether they ever worked at the landfill and if  
13:20:50 6 they're alive today and if you know where they  
13:20:52 7 are, okay? So we'll do those all in order.

13:20:53 8 A. Okay.

13:20:55 9 Q. Cyril Grillot?

13:20:56 10 A. He's deceased.

13:20:59 11 Q. Okay. And that's your father,  
13:20:59 12 correct?

13:20:59 13 A. Correct.

13:21:00 14 Q. Now, he purchased the site  
13:21:02 15 originally, correct?

13:21:03 16 A. Yes.

13:21:05 17 MR. ROMINE: Objection to the extent  
13:21:04 18 that it covers ground that was covered in his 2012  
13:21:09 19 deposition.

13:21:10 20 BY MR. HAUGHEY:

13:21:10 21 Q. Okay. Did he purchase it with a  
13:21:14 22 man by the name of Fink?

13:21:16 23 A. Yeah.

13:21:16 24 MR. ROMINE: Same objection.

13:21:17 25 THE WITNESS: How did you know?

13:21:18 1 Yeah. Yeah.

13:21:19 2 BY MR. HAUGHEY:

13:21:19 3 Q. Who is Fink?

13:21:20 4 A. Dad called --

13:21:20 5 MR. ROMINE: Same objection.

13:21:20 6 THE WITNESS: -- him old man Fink  
13:21:20 7 and --

13:21:20 8 (Thereupon, the court reporter  
13:21:20 9 interrupted the proceedings.)

13:21:20 10 MR. HAUGHEY: Yeah, can we go off --  
13:21:20 11 can we go off the record?

13:21:20 12 (Thereupon, an off-the-record  
13:21:20 13 discussion was had.)

13:21:20 14 MR. HAUGHEY: Okay. We'll go back  
13:21:20 15 on. Go ahead, David.

13:21:20 16 MR. ROMINE: I have a continuing  
13:21:20 17 objection to the questions about Mr. Grillot's  
13:21:20 18 father's purchase of the dump and background  
13:21:20 19 information about the dump and Mr. Grillot's  
13:21:20 20 childhood, because Judge Rice said don't go over  
13:21:20 21 details about that kind of thing.

13:21:20 22 (Thereupon, the court reporter  
13:21:20 23 interrupted the proceedings.)

13:21:20 24 MR. HAUGHEY: We will repeat the  
13:21:20 25 question. I want to go on the record as saying

13:22:25 1 that that's not our interpretation of Judge Rice's  
13:22:29 2 instructions, and that we do not feel that asking  
13:22:33 3 Mr. Grillot about the 2012 deposition retreads new  
13:22:37 4 ground -- or retreads old ground with respect to  
13:23:10 5 the Hobart two and three defendants who had no  
13:23:43 6 notice and no opportunity to be involved in that  
13:23:47 7 2012 deposition.

13:23:49 8 With that said, we're accepting a  
13:23:51 9 continuing objection from plaintiffs' counsel on  
13:23:55 10 those questions. Okay. Thank you.

13:23:55 11 BY MR. HAUGHEY:

13:23:59 12 Q. Okay. The next person, Alcine --

13:23:59 13 A. Alcine.

13:24:01 14 Q. -- Grillot? Alcine Grillot?

13:24:01 15 A. Yes. He's deceased.

13:24:05 16 Q. Okay. And wasn't he Cyril's  
13:24:07 17 brother?

13:24:09 18 A. Correct.

13:24:10 19 Q. Okay. As I recall your  
13:24:11 20 deposition, he really ran the landfill, even  
13:24:13 21 though Cyril owned the property, correct?

13:24:17 22 A. Correct.

13:24:17 23 Q. Okay. Wasn't another brother,  
13:24:22 24 Kenneth, another one of the prime operators of  
13:24:23 25 the landfill along with Alcine?

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13:24:28 1 A. Kenny was overseer, I guess you  
13:24:32 2 would call, and did the money taking and so on  
13:24:37 3 and so forth, so I don't know what title he  
13:24:39 4 would have had, but --

13:24:40 5 Q. Okay. Well, let me ask you about  
13:24:41 6 those -- those two in terms of how they ran the  
13:24:46 7 landfill. Who -- did Al -- what was Alcine's  
13:24:47 8 role in the day-to-day operation of the  
13:24:50 9 landfill?

13:24:52 10 A. He was mayor of Moraine City. I  
13:24:56 11 think it was called the Moraine Township at the  
13:25:01 12 time, and he basically -- that was his daytime  
13:25:06 13 pretty much thing, and he would come down to  
13:25:09 14 the dump early afternoon, late in the evening,  
13:25:13 15 and bull -- till I came along, he would  
13:25:15 16 bulldoze stuff down on the pit and -- but  
13:25:18 17 that's all, you know --

13:25:20 18 Q. Did he go out and solicit  
13:25:22 19 customers to -- to bring waste to the landfill?

13:25:25 20 A. I don't know that.

13:25:26 21 Q. Okay. You -- I think -- I believe  
13:25:27 22 you mentioned that Kenneth was involved with,  
13:25:30 23 as you termed it, the money?

13:25:30 24 A. Right.

13:25:33 25 Q. In what way was he involved with

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13:25:34 1 the money?

13:25:35 2 A. Well, when a particular client  
13:25:41 3 would come in front of the office, he would  
13:25:44 4 walk out, and if it was a public person  
13:25:49 5 dropping off something, then he would collect  
13:25:51 6 cash, but then when a company that did it quite  
13:25:56 7 often, he'd fill out a slip and hand it to the  
13:26:01 8 driver and then -- then he kept another part of  
13:26:07 9 the slip and put it on the desk, and so --

13:26:10 10 Q. Okay. We'll talk a little more  
13:26:14 11 about -- those are the dump tickets, correct?

13:26:16 12 A. Correct.

13:26:16 13 Q. What about Cecil Grillot?

13:26:18 14 A. Cecil was a brother. He's  
13:26:19 15 deceased.

13:26:23 16 Q. Okay. And what was his role, if  
13:26:23 17 anything, at the landfill?

13:26:26 18 A. None that -- other than he was a  
13:26:29 19 stone mason, and he pretty much did a lot of  
13:26:35 20 stone masonry for friends and relatives and so  
13:26:40 21 on and so forth.

13:26:42 22 Q. Okay. So basically your answer is  
13:26:44 23 he had no real involvement --

13:26:44 24 A. No.

13:26:46 25 Q. -- with the landfill, correct?

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13:26:47 1 A. Correct.

13:26:47 2 Q. Okay. How about Horace, I believe  
13:26:49 3 you said, Boesch?

13:26:50 4 A. Boesch.

13:26:53 5 Q. Okay. So it's not Boesch?

13:26:53 6 A. Boesch, B-O-E-S-C-H.

13:26:56 7 Q. Okay. Let's do Horace Boesch, not  
13:26:59 8 Horace -- or Horace Boesch, Jr. Let's do  
13:27:02 9 Horace Boesch first. Who is Horace Boesch?

13:27:05 10 A. Horace was my dad's partner. He  
13:27:10 11 was an attorney and my Godparent.

13:27:16 12 Q. Did he represent Cyril as an  
13:27:18 13 attorney?

13:27:20 14 A. They worked together on particular  
13:27:23 15 things, especially purchasing property. He  
13:27:26 16 would do the title search and da, da, da, da.

13:27:28 17 Q. What was his involvement, if  
13:27:30 18 anything, in the day-to-day operation of the  
13:27:32 19 landfill?

13:27:32 20 A. He wasn't.

13:27:34 21 Q. Okay. Now, I believe he had a  
13:27:36 22 son, Horace Boesch, Jr., correct?

13:27:39 23 A. His name was Jack Boesch actually.

13:27:42 24 Q. Okay. So he -- but he -- his real  
13:27:43 25 name was Horace, correct?

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13:27:44 1 A. Um-hum.  
 13:27:44 2 Q. But he went by Jack?  
 13:27:45 3 A. Um-hum.  
 13:27:46 4 Q. All right. Was he involved with  
 13:27:51 5 the landfill?  
 13:27:54 6 A. No. No.  
 13:27:56 7 Q. He didn't do any salvage work when  
 13:27:58 8 he was growing up at the landfill?  
 13:28:00 9 MR. ROMINE: Asked and answered.  
 13:28:02 10 THE WITNESS: They had purchased a  
 13:28:08 11 airport hangar from Wright-Patterson Air Force  
 13:28:12 12 Base, and this was the story Jack told me, because  
 13:28:14 13 my dad and I didn't get along sometimes, and he  
 13:28:18 14 was saying that he got the best of Dad and his  
 13:28:21 15 father, his own father, because they -- when they  
 13:28:23 16 went over to tear the thing down, Jack had  
 13:28:25 17 marked -- made marks on all the panels.  
 13:28:27 18 Well, when they got back to the dump  
 13:28:29 19 to put it back together, they couldn't figure  
 13:28:31 20 out, and Jack said that he had taken and marked it  
 13:28:33 21 and they had to pay him to put it back together,  
 13:28:37 22 so that's only thing I -- he -- he helped at one  
 13:28:37 23 time.  
 13:28:37 24 BY MR. HAUGHEY:  
 13:28:39 25 Q. He helped with -- okay. Was he --

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13:28:41 1 did he play there growing up?  
 13:28:41 2 A. Pardon me?  
 13:28:43 3 Q. Did he play there growing up?  
 13:28:46 4 A. He was more -- he was a lot older  
 13:28:49 5 and he was into real estate, I think.  
 13:28:52 6 Q. Okay. Your testimony about him  
 13:28:57 7 marking a hangar and then reassembling it at  
 13:29:02 8 the site, I take it you thought he was pretty  
 13:29:02 9 smart?  
 13:29:06 10 A. For doing that, yeah.  
 13:29:06 11 Q. Okay. Didn't he go to law school?  
 13:29:08 12 A. I think he -- for a while. I  
 13:29:10 13 think he tried. I think -- I don't know if he  
 13:29:12 14 was an actual attorney or not, because there  
 13:29:17 15 was so many brothers in the Boesch family that  
 13:29:18 16 were prominent lawyers here in Dayton, that I  
 13:29:21 17 don't remember.  
 13:29:21 18 Q. Would he have a good memory of the  
 13:29:25 19 site operations?  
 13:29:26 20 MR. ROMINE: Objection. Calls for  
 13:29:28 21 opinion. Object to the form.  
 13:29:29 22 BY MR. HAUGHEY:  
 13:29:29 23 Q. In your opinion, would -- in your  
 13:29:31 24 opinion, would he have a good memory of what  
 13:29:32 25 took place at the landfill?

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13:29:33 1 MR. ROMINE: Objection to the form of  
 13:29:34 2 the question.  
 13:29:37 3 THE WITNESS: Probably.  
 13:29:37 4 BY MR. HAUGHEY:  
 13:29:38 5 Q. Okay. Would he perhaps have a  
 13:29:39 6 better memory than you, in your opinion?  
 13:29:41 7 MR. ROMINE: Calls for opinion.  
 13:29:43 8 Object to the form of the question.  
 13:29:44 9 THE WITNESS: No.  
 13:29:45 10 BY MR. HAUGHEY:  
 13:29:45 11 Q. No. Why not?  
 13:29:47 12 MR. ROMINE: Same objection.  
 13:29:48 13 THE WITNESS: I was there almost  
 13:29:49 14 every day and -- and then when I would help sort  
 13:29:54 15 all the dump receipts or the little cards that  
 13:29:59 16 would -- I'd have to sort them out and -- by  
 13:30:02 17 alphabetical order, staple them together, and then  
 13:30:05 18 they would go to Alcine's house where his wife did  
 13:30:09 19 the book work.  
 13:30:10 20 BY MR. HAUGHEY:  
 13:30:10 21 Q. Okay.  
 13:30:11 22 A. Her name was Leone, and she's  
 13:30:14 23 deceased.  
 13:30:18 24 Q. Okay. If I understood you  
 13:30:19 25 correctly, you would take the dump tickets and

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13:30:22 1 you would staple them together and then you  
 13:30:24 2 would give them to whose wife to do the  
 13:30:27 3 billing?  
 13:30:27 4 A. Alcine would -- if he came that  
 13:30:29 5 evening to push the debris over, then he'd pick  
 13:30:35 6 them up. Usually it was Friday, because all of  
 13:30:38 7 us expected, you know, to get paid that day  
 13:30:41 8 and -- and so he'd do everything at once.  
 13:30:48 9 Q. Okay. How much older was Jack  
 13:30:52 10 than you?  
 13:30:55 11 A. I -- if not ten years, maybe 12,  
 13:30:57 12 13 years older.  
 13:30:59 13 Q. So wouldn't it be fair to say he'd  
 13:31:01 14 have a better memory --  
 13:31:03 15 MR. ROMINE: Objection.  
 13:31:03 16 BY MR. HAUGHEY:  
 13:31:03 17 Q. -- when he was at the site before  
 13:31:08 18 you --  
 13:31:08 19 A. Yeah.  
 13:31:08 20 MR. ROMINE: Objection. Asked and  
 13:31:05 21 answered.  
 13:31:06 22 BY MR. HAUGHEY:  
 13:31:06 23 Q. -- were old enough to --  
 13:31:06 24 A. Yeah.  
 13:31:08 25 MR. ROMINE: Objection to the form of

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13:31:08 1 the question. Calls for opinion.  
 13:31:08 2 BY MR. HAUGHEY:  
 13:31:09 3 Q. Okay. How long was the  
 13:31:10 4 landfill -- the landfill was opened in the  
 13:31:12 5 '50s, too, wasn't it?  
 13:31:13 6 A. I think somewhere in the early  
 13:31:18 7 '50s maybe.  
 13:31:18 8 Q. And I believe you were born in  
 13:31:19 9 1952, correct?  
 13:31:20 10 A. Correct.  
 13:31:21 11 Q. And I believe you just testified  
 13:31:22 12 that he was close to ten years older than you,  
 13:31:24 13 correct?  
 13:31:24 14 A. Right.  
 13:31:25 15 Q. So didn't you also testify on  
 13:31:27 16 direct that your earliest memory at the  
 13:31:30 17 landfill was sometime around eight years old or  
 13:31:30 18 so?  
 13:31:33 19 A. Yeah.  
 13:31:33 20 Q. So that would be around 1960,  
 13:31:34 21 correct?  
 13:31:34 22 A. Correct.  
 13:31:35 23 Q. So wouldn't Jack's memory of what  
 13:31:37 24 took place at the landfill be better than yours  
 13:31:40 25 between the period of 1950 and 1960?

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13:31:42 1 MR. ROMINE: Objection. Asked and  
 13:31:44 2 answered. It calls for opinion.  
 13:31:45 3 THE WITNESS: No, because I think he  
 13:31:46 4 was off to college somewhere, at a Catholic school  
 13:31:49 5 somewhere.  
 13:31:49 6 MR. HARBECK: Mr. Grillot, could you  
 13:31:50 7 speak up just a little for us down at the end of  
 13:31:53 8 the table?  
 13:31:54 9 THE WITNESS: Sure.  
 13:31:54 10 MR. HARBECK: Thank you.  
 13:31:54 11 THE WITNESS: Do you need me to  
 13:31:55 12 repeat what I just said?  
 13:31:56 13 MR. HARBECK: Yes. Well, maybe  
 13:31:57 14 the court reporter can read it back. I didn't  
 13:31:58 15 hear -- I didn't hear a word. We'll let her read  
 13:31:59 16 it back.  
 13:32:00 17 (Record read.)  
 13:32:03 18 BY MR. HAUGHEY:  
 13:32:03 19 Q. We'll come back to the dump  
 13:32:04 20 tickets and Leone's role in those, but I wanted  
 13:32:05 21 to continue on with the list of names I have.  
 13:32:06 22 How about Katherine Boesch?  
 13:32:07 23 A. Kathy was Horace's original  
 13:32:08 24 secretary when he had his office somewhere  
 13:32:09 25 downtown here.

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13:32:01 1 Q. Horace, Sr., not Jr.?  
 13:32:04 2 A. Sr., right.  
 13:32:05 3 Q. Okay. Was he married -- was he  
 13:32:06 4 married to her, too?  
 13:32:07 5 A. At the very end of his life, yes.  
 13:32:08 6 Q. Okay. How about -- what role, if  
 13:32:09 7 anything, did she have in the landfill?  
 13:32:10 8 A. None.  
 13:32:11 9 Q. How about Marjorie Grillot?  
 13:32:12 10 A. Margaret.  
 13:32:13 11 Q. Okay. Margaret.  
 13:32:14 12 A. That was my stepmom.  
 13:32:15 13 Q. Okay. And was she -- so she --  
 13:32:16 14 was she Cyril's first or second wife?  
 13:32:17 15 A. Fifth wife.  
 13:32:18 16 Q. Okay. Okay. Sorry. What role,  
 13:32:19 17 if anything, did Margaret have in the operation  
 13:32:20 18 of the landfill?  
 13:32:21 19 A. None -- none at all.  
 13:32:22 20 Q. She didn't send any bills out or  
 13:32:23 21 collect invoices or anything?  
 13:32:24 22 A. No. No.  
 13:32:25 23 Q. Okay. Okay. How about Ruby  
 13:32:26 24 Grillot?  
 13:32:27 25 A. Which one?

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13:32:30 1 Q. Ruby Grillot.  
 13:32:31 2 A. Well, there's two.  
 13:32:32 3 Q. Oh, okay. So Cyril was married to  
 13:32:33 4 two different women named Ruby?  
 13:32:34 5 A. No, his son's -- my stepbrother  
 13:32:35 6 was named Ruby, also, and so they got a lot of  
 13:32:36 7 confusion with mail, because his name was  
 13:32:37 8 Cyril, Jr., and -- and Ruby, and then Dad -- or  
 13:32:38 9 Cyril and Ruby, so they got mail switched up,  
 13:32:39 10 so, you know.  
 13:32:40 11 Q. Well, maybe I can help you  
 13:32:41 12 simplify it. Anyone going by the name of Ruby,  
 13:32:42 13 okay?  
 13:32:43 14 A. That was my mom.  
 13:32:44 15 Q. Yeah. What did anyone going by  
 13:32:45 16 the name of Ruby have by way of any duties  
 13:32:46 17 or -- or involvement at the landfill?  
 13:32:47 18 A. None.  
 13:32:48 19 Q. Okay. Thank you. How about David  
 13:32:49 20 Grillot?  
 13:32:50 21 A. Dave worked -- he's my cousin, and  
 13:32:51 22 Dave worked with me on the incinerator.  
 13:32:52 23 Q. Okay. How old is David compared  
 13:32:53 24 to you?  
 13:32:54 25 A. Two or three years older.

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13:34:28 1 Q. Is he still alive?

13:34:30 2 A. Yes.

13:34:32 3 Q. Where does he live?

13:34:34 4 A. I believe Moraine. I mean,

13:34:36 5 Miamisburg somewhere. West Carrollton. West

13:34:39 6 Carrollton, on Munger Road, I think.

13:34:41 7 Q. Is he Alcine's son?

13:34:43 8 A. Yeah.

13:34:45 9 Q. Did he spend a lot of time growing

13:34:47 10 up at the landfill?

13:34:48 11 A. Yeah.

13:34:49 12 Q. Did he work part-time at the

13:34:50 13 landfill with you?

13:34:51 14 A. Not with me. Well, on -- yeah.

13:34:54 15 Yes. Yes.

13:34:56 16 Q. Okay. Did he -- was he involved

13:35:00 17 in some of the salvaging operations along with

13:35:03 18 you, pulling out iron and metal and what have

13:35:05 19 you?

13:35:05 20 A. I let him do the tractor because I

13:35:08 21 didn't like getting close to that fire, so he

13:35:11 22 mainly did that and I did the hard part by

13:35:14 23 stacking the skids and --

13:35:15 24 Q. Okay. Do you know if his

13:35:16 25 deposition has been taken?

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13:35:18 1 A. I don't know.

13:35:19 2 Q. Do you know if he's given any

13:35:21 3 sworn statements about the site?

13:35:23 4 A. I don't know.

13:35:24 5 Q. What's his health like?

13:35:27 6 A. Pretty good.

13:35:28 7 Q. Good. Okay. So do you know why

13:35:31 8 no one has sought to take his deposition?

13:35:37 9 A. No, other than he just don't like

13:35:40 10 talking about it.

13:35:40 11 Q. As opposed to you?

13:35:42 12 A. Huh?

13:35:43 13 Q. As opposed to you?

13:35:45 14 A. Right.

13:35:46 15 Q. Okay. How about his recollection?

13:35:50 16 How would you measure his recollection of what

13:35:52 17 took place at the site compared to, say, yours?

13:35:54 18 MR. ROMINE: Objection. Calls for

13:35:55 19 opinion. Object to the form of the question.

13:35:58 20 THE WITNESS: David didn't come in

13:36:00 21 the picture probably till somewhere in -- he

13:36:10 22 worked there part-time, like in the '60s, but the

13:36:14 23 '70s he started coming more around because he --

13:36:15 24 his job allowed him to do so. I think, and -- so

13:36:19 25 what was the question again?

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13:36:22 1 BY MR. HAUGHEY:

13:36:24 2 Q. Well, just comparative. If you

13:36:26 3 had to have an opinion, would he have as good a

13:36:29 4 recollection of what took place at the site as

13:36:32 5 you, not as good or better? What would be your

13:36:34 6 opinion?

13:36:34 7 MR. ROMINE: Same objection.

13:36:35 8 THE WITNESS: My -- my opinion,

13:36:36 9 because I was told by him that he was jealous of

13:36:39 10 my ambition on the dump, and when I got to run the

13:36:44 11 bulldozer, it was like I stepped way over his head

13:36:46 12 and he felt -- he said he had bad blood with me,

13:36:49 13 so, of course, I had a rivalry there, I guess.

13:36:54 14 BY MR. HAUGHEY:

13:36:55 15 Q. Okay. All right. How about Mike

13:36:59 16 Wendling, W-E-N-D-L-I-N-G?

13:37:04 17 A. Cousin

13:37:04 18 Q. Cousin. Okay. Who's his father

13:37:04 19 and mother?

13:37:08 20 A. It would have been Amos. Let's

13:37:12 21 see, wait. No.

13:37:13 22 Q. I'm trying to figure out how is he

13:37:15 23 your cousin.

13:37:15 24 A. Petey -- Petey Wendling, he was my

13:37:18 25 dad's sister's son.

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13:37:18 1 Q. Okay.

13:37:21 2 MR. COUGHLIN: Would you say that

13:37:23 3 name again, please?

13:37:22 4 THE WITNESS: Yeah, it was my dad's

13:37:23 5 sister's son.

13:37:24 6 MR. COUGHLIN: And what was the name?

13:37:26 7 THE WITNESS: Yeah, her name was --

13:37:31 8 what was it? Margie, Margie Brown was her last

13:37:42 9 given name.

13:37:43 10 MR. COUGHLIN: Thank you.

13:37:50 11 BY MR. HAUGHEY:

13:37:50 12 Q. Okay. How well did you know Mike

13:37:56 13 Wendling as a cousin?

13:37:58 14 A. Very well.

13:37:59 15 Q. Okay. As I recall, he -- from

13:38:03 16 your deposition in 2012, he worked at the site

13:38:05 17 a lot with you, correct?

13:38:08 18 A. Yeah. Yes. Yeah.

13:38:10 19 Q. Okay. Now, didn't he graduate

13:38:12 20 from Centerville High School?

13:38:13 21 A. Yes.

13:38:13 22 Q. All right. And didn't he at one

13:38:15 23 time work for the county engineers?

13:38:17 24 A. I don't know that.

13:38:19 25 Q. Okay. Would -- how would -- if

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13:38:24 1 you were rating his memory of what took place  
 13:38:26 2 at the landfill compared to yours, how would  
 13:38:28 3 you rate him? Do you think he would be as good  
 13:38:30 4 a memory, not as good, better? What do you  
 13:38:32 5 think?  
 13:38:34 6 MR. ROMINE: Objection to the form of  
 13:38:36 7 the question. It calls for opinion.  
 13:38:38 8 THE WITNESS: Not as good as mine.  
 13:38:39 9 BY MR. HAUGHEY:  
 13:38:39 10 Q. Okay. And he was older than you,  
 13:38:41 11 correct?  
 13:38:41 12 A. Correct.  
 13:38:41 13 Q. How much older?  
 13:38:44 14 A. He's six -- five years older than  
 13:38:47 15 me.  
 13:38:47 16 Q. So would he not then have a --  
 13:38:50 17 perhaps a better memory when he -- when you  
 13:38:50 18 were younger than you?  
 13:38:54 19 MR. ROMINE: Objection. Asked and  
 13:38:54 20 answered. It calls for opinion. Form of the  
 13:38:54 21 question.  
 13:38:54 22 THE WITNESS: No, because the  
 13:38:54 23 early -- his involvement was more for fun. Margie  
 13:39:02 24 had like 14 kids and they all came down to play on  
 13:39:04 25 the dump, and -- and so it was more -- but Mike

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13:39:12 1 was more -- he ended up being a manager -- manager  
 13:39:18 2 for a grocery chain in Dayton at one time, so he  
 13:39:21 3 was pretty much into that, so --  
 13:39:21 4 BY MR. HAUGHEY:  
 13:39:22 5 Q. Okay. So he was a pretty  
 13:39:24 6 intelligent man, correct?  
 13:39:25 7 A. Yeah.  
 13:39:25 8 Q. Let's -- let's stick with Mike.  
 13:39:28 9 Would you have any reason to believe that he  
 13:39:29 10 would be less than truthful about what he  
 13:39:31 11 remembered about the landfill operations?  
 13:39:33 12 MR. ROMINE: I -- I object to this.  
 13:39:34 13 This is going way beyond what I talked about when  
 13:39:38 14 I asked him about this morning and going way  
 13:39:41 15 beyond the scope of Judge Rice's order.  
 13:39:42 16 THE WITNESS: Could you please repeat  
 13:39:43 17 the question?  
 13:39:44 18 BY MR. HAUGHEY:  
 13:39:44 19 Q. Yeah. Sure. Do you have any  
 13:39:45 20 reason to believe that Mike would be less than  
 13:39:49 21 truthful if asked about what he remembers about  
 13:39:52 22 the landfill operations?  
 13:39:52 23 MR. ROMINE: Same objection.  
 13:39:54 24 Opinion.  
 13:39:54 25 THE WITNESS: He would be --

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13:40:54 1 BY MR. HAUGHEY:  
 13:40:57 2 Q. Would he be truthful?  
 13:40:58 3 A. Yeah. Yeah. Yes.  
 13:40:59 4 Q. Okay. How about Horace Boesch,  
 13:41:02 5 Jr., would he be as truthful?  
 13:41:04 6 MR. ROMINE: Same objection.  
 13:41:04 7 THE WITNESS: Yes.  
 13:41:04 8 BY MR. HAUGHEY:  
 13:41:05 9 Q. Okay. Is there anyone who worked  
 13:41:08 10 at the landfill with you or around you who you  
 13:41:11 11 would think, if asked today, would be less than  
 13:41:17 12 truthful about what took place at the landfill?  
 13:41:19 13 MR. ROMINE: Same objection.  
 13:41:20 14 THE WITNESS: No.  
 13:41:20 15 BY MR. HAUGHEY:  
 13:41:21 16 Q. Okay. How about Tim Wendling?  
 13:41:27 17 A. Tim was a brother of Mike, and the  
 13:41:32 18 only time he came down is to collect items off  
 13:41:34 19 the dump for his mom. She -- she ran a garage  
 13:41:41 20 sale all year round, and so the items she got,  
 13:41:45 21 so, you know.  
 13:41:48 22 Q. Okay. That's interesting. Did  
 13:41:50 23 you supply Tim and Mike's mom with items to be  
 13:41:55 24 sold at a garage sale that came from the  
 13:41:58 25 landfill?

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13:42:00 1 A. No, because my interest was in TVs  
 13:42:02 2 and radios and -- so, you know.  
 13:42:05 3 Q. All right. How about Butch  
 13:42:11 4 Grillet?  
 13:42:11 5 A. Butch, he was my cousin.  
 13:42:18 6 Q. And who's -- which one of your  
 13:42:23 7 dad's brothers is he the son of?  
 13:42:23 8 A. Cecil.  
 13:42:28 9 Q. Cecil. Okay. Was he involved at  
 13:42:29 10 all at the landfill?  
 13:42:39 11 A. Oh, yeah.  
 13:42:40 12 Q. Was he alongside you and Mike and  
 13:42:44 13 others at various times in the landfill?  
 13:42:47 14 A. Butch was a lot older than -- than  
 13:42:48 15 I was, and we were like brothers.  
 13:42:49 16 Q. Okay. How much older?  
 13:42:49 17 A. Maybe eight years older than I.  
 13:42:49 18 Q. All right. Same question, if you  
 13:42:53 19 rated his memory of the operations at the  
 13:42:57 20 landfill compared to yours, how would he rate,  
 13:42:59 21 equal, better or less?  
 13:43:09 22 A. It'd be very truthful.  
 13:43:10 23 Q. I'm sorry?  
 13:43:10 24 MR. ROMINE: Same objection.  
 13:43:12 25 THE WITNESS: Truthful.

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13:42:03 1 BY MR. HAUGHEY:  
 13:42:03 2 Q. How about as the quality of his  
 13:42:04 3 memory?  
 13:42:04 4 MR. ROMINE: Same objection.  
 13:42:05 5 THE WITNESS: It would have been  
 13:42:06 6 truthful. He's -- he's deceased.  
 13:42:08 7 BY MR. HAUGHEY:  
 13:42:09 8 Q. Okay. He's deceased. Okay.  
 13:42:10 9 Thank you. How about John Robert Grillot?  
 13:42:14 10 A. That's my brother.  
 13:42:17 11 Q. Okay. And --  
 13:42:17 12 MR. COUGHLIN: Who?  
 13:42:17 13 BY MR. HAUGHEY:  
 13:42:20 14 Q. John Robert Grillot.  
 13:42:21 15 MR. COUGHLIN: What was it again?  
 13:42:21 16 That's my what?  
 13:42:22 17 MR. HAUGHEY: He said that's my  
 13:42:23 18 brother.  
 13:42:25 19 BY MR. HAUGHEY:  
 13:42:25 20 Q. How much older or younger than you  
 13:42:30 21 is John Robert Grillot?  
 13:42:32 22 A. He's ten years younger than --  
 13:42:34 23 he's ten years younger than I am.  
 13:42:34 24 Q. Okay. Is he still alive?  
 13:42:38 25 A. Yes.

13:42:39 1 Q. Where does he live?  
 13:42:41 2 A. In -- he lives in Dayton.  
 13:42:44 3 Q. Do you know if he has given a  
 13:42:49 4 deposition in this case?  
 13:42:50 5 A. No.  
 13:42:50 6 Q. Do you know if he's been asked to  
 13:42:52 7 give a deposition?  
 13:42:53 8 A. No.  
 13:42:53 9 Q. Do you know if he's given any  
 13:42:55 10 sworn statements?  
 13:42:58 11 A. No.  
 13:42:56 12 Q. Do you know of any reason why he  
 13:43:00 13 has not been asked to give a deposition or give  
 13:43:03 14 a sworn statement?  
 13:43:05 15 A. I don't know why, but --  
 13:43:07 16 Q. Okay. How much older or younger  
 13:43:12 17 did you say John was than you?  
 13:43:13 18 A. He's ten years younger.  
 13:43:17 19 Q. Ten years younger?  
 13:43:18 20 A. Ten years younger.  
 13:43:20 21 Q. Okay. The same question, would he  
 13:43:26 22 be truthful if he were asked to give a sworn  
 13:43:29 23 statement about what he remembers at the site?  
 13:43:32 24 MR. ROMINE: Same objection.  
 13:43:33 25 THE WITNESS: John wouldn't know.

13:43:34 1 Johnny wouldn't know anything about the dump  
 13:43:36 2 because he was basically hardly ever down there.  
 13:43:40 3 BY MR. HAUGHEY:  
 13:43:40 4 Q. Okay. All right. How about Bud  
 13:43:44 5 Young?  
 13:43:44 6 A. Bud was -- he's deceased, but Bud  
 13:43:49 7 was -- Bud's -- Bud's deceased, but he had  
 13:43:53 8 worked on the dump ever since probably when it  
 13:43:56 9 opened up and --  
 13:44:00 10 Q. What -- who -- what -- was he a  
 13:44:03 11 family member?  
 13:44:04 12 A. No, he was just a good friend, but  
 13:44:06 13 he lived on the dump and --  
 13:44:13 14 Q. Okay. So he's deceased. Does he  
 13:44:14 15 have any living relatives in the Dayton area?  
 13:44:17 16 A. I wouldn't know, but I wouldn't  
 13:44:19 17 think so. He was pretty much a loner, so --  
 13:44:21 18 Q. Why did he live at the landfill?  
 13:44:28 19 A. Well, I think he didn't have  
 13:44:26 20 anywhere else to go, and -- and he -- he pretty  
 13:44:33 21 much kept an eye on it and made sure that  
 13:44:35 22 nobody broke into the office and so on and so  
 13:44:38 23 forth.  
 13:44:38 24 Q. Was there a house or a trailer on  
 13:44:40 25 the site where he lived?

13:44:41 1 A. The first part that I remember he  
 13:44:43 2 lived in one -- the building that Jack had  
 13:44:47 3 erected out of the -- the hangar, and then he  
 13:44:52 4 ended up moving into a trailer that was the  
 13:44:56 5 office at the very last.  
 13:44:59 6 Q. Okay. Did he pay rent to live at  
 13:45:01 7 the landfill?  
 13:45:01 8 A. I wouldn't know that.  
 13:45:02 9 Q. Was he a friend of your dad's?  
 13:45:05 10 A. Well, back in the Fink days, yeah.  
 13:45:10 11 They were -- they were pretty close.  
 13:45:11 12 Q. Is that how the arrangement was  
 13:45:13 13 made that brought him to live there?  
 13:45:14 14 A. Yes.  
 13:45:15 15 Q. What was his role at the landfill?  
 13:45:18 16 A. He drove the -- a truck till I  
 13:45:24 17 did, and he would go through the burn pile  
 13:45:28 18 before and after to pick up items that would be  
 13:45:32 19 either sold or -- that would go in piles of the  
 13:45:37 20 metal that would go to separate places and --  
 13:45:40 21 Q. Okay. How about Larry Brannon or  
 13:45:47 22 Larry Brandon, which is it?  
 13:45:49 23 A. Brandon.  
 13:45:50 24 Q. Brandon, B-R-A-N-D-O-N?  
 13:45:52 25 A. I think so.

13:45:52 1 Q. Okay. And what's his relationship  
13:45:55 2 to the landfill?  
13:45:56 3 MR. ROMINE: Objection. Asked and  
13:45:56 4 answered.  
13:45:58 5 THE WITNESS: Well, I stated earlier  
13:46:03 6 that he and some other people got the incinerators  
13:46:09 7 built on the dump.  
13:46:11 8 BY MR. HAUGHEY:  
13:46:11 9 Q. Okay. Is he still alive?  
13:46:13 10 A. No.  
13:46:13 11 Q. Do you know if he gave a  
13:46:18 12 deposition or a sworn statement relating to the  
13:46:19 13 operations at the landfill to anyone?  
13:46:20 14 A. I wouldn't know that.  
13:46:21 15 Q. Do you know if Bud Young gave a  
13:46:24 16 deposition or --  
13:46:24 17 A. No.  
13:46:25 18 Q. -- a sworn statement to anyone?  
13:46:28 19 Okay. How about James R. Mitchell?  
13:46:31 20 A. He was Dad's attorney.  
13:46:35 21 Q. Okay. I thought you testified  
13:46:39 22 earlier that Horace Boesch, Sr., did legal work  
13:46:45 23 for your dad. Do you remember making that  
13:46:47 24 statement?  
13:46:47 25 A. Well, Mr. Kiefer, right? James

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13:46:52 1 Kiefer, is that what you said?  
13:46:54 2 Q. No. I'm trying to understand who  
13:46:54 3 represented your dad. I believe you testified  
13:46:57 4 earlier that Horace Boesch, the co-owner of the  
13:47:02 5 site with your dad, was also an attorney who  
13:47:05 6 represented your dad in legal matters.  
13:47:06 7 A. But --  
13:47:06 8 MR. ROMINE: Objection. Vague as to  
13:47:08 9 time period.  
13:47:09 10 THE WITNESS: But what I'm asking  
13:47:10 11 originally before that, did you say James Kiefer?  
13:47:10 12 BY MR. HAUGHEY:  
13:47:13 13 Q. No, I've never mentioned him.  
13:47:13 14 A. Okay. I'm sorry.  
13:47:13 15 Q. That's okay.  
13:47:15 16 A. What was the -- what was the name?  
13:47:16 17 Q. Okay. You -- I believe you  
13:47:19 18 testified that James Mitchell was an attorney  
13:47:23 19 who represented your dad, correct?  
13:47:23 20 A. Yep.  
13:47:23 21 Q. Represented in what?  
13:47:23 22 A. Pardon me?  
13:47:25 23 Q. Represented him in what?  
13:47:26 24 A. They were attorneys downtown here  
13:47:29 25 that specialized in title stuff. I don't know

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13:47:37 1 how exactly to --  
13:47:38 2 Q. Is he deceased?  
13:47:39 3 A. Yes.  
13:47:40 4 Q. Okay. Do you know if he was with  
13:47:42 5 a law firm that still exists here in Dayton?  
13:47:46 6 A. I don't know if Mr. Mitchell is  
13:47:47 7 still in business or not, but --  
13:47:49 8 Q. Okay. So you don't know whether  
13:47:51 9 he would have any records relating to the  
13:47:54 10 landfill?  
13:47:54 11 A. I would say he would, yeah.  
13:47:57 12 Q. Okay. But you don't know where  
13:47:59 13 those records are, correct?  
13:48:00 14 A. No.  
13:48:01 15 Q. Okay. How about Horace Boesch,  
13:48:04 16 would he have had records relating to the  
13:48:08 17 landfill when he was an attorney working with  
13:48:09 18 your dad?  
13:48:10 19 A. No.  
13:48:10 20 Q. Okay. How about Toni Nash?  
13:48:14 21 A. That was my --  
13:48:16 22 Q. T-O-N-I.  
13:48:17 23 A. That was my sister, and she's  
13:48:19 24 deceased.  
13:48:20 25 Q. Okay. What did she have by way of

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13:48:23 1 any involvement at the landfill?  
13:48:26 2 A. None.  
13:48:28 3 Q. How about Debbie Grillot or  
13:48:34 4 Deborah Grillot-Cornett? It looks like they're  
13:48:35 5 both the same. Do you recognize them?  
13:48:37 6 A. Um-hum.  
13:48:38 7 Q. Who are they?  
13:48:39 8 A. Yes. Yes. Yes.  
13:48:39 9 Q. Okay.  
13:48:40 10 A. She was my niece.  
13:48:43 11 Q. Okay. Whose daughter was she?  
13:48:45 12 A. I had spoken of my half brother,  
13:48:48 13 which his name was Cyril. That was his  
13:48:51 14 daughter.  
13:48:56 15 Q. Okay. Cyril was your dad,  
13:49:03 16 correct?  
13:49:03 17 A. Correct.  
13:49:08 18 Q. Right. And Debbie or Deborah was  
13:49:08 19 a stepdaughter of his?  
13:49:12 20 A. See, how would that be. His son  
13:49:14 21 was her daughter, so she would be a niece.  
13:49:20 22 Q. Okay.  
13:49:20 23 A. I think.  
13:49:20 24 Q. Is she still alive?  
13:49:22 25 A. Yes.

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12:49:22 1 Q. Where does she live?

12:49:25 2 A. Hamilton, I believe.

12:49:29 3 Q. Okay. And do you know if she has

12:49:33 4 given -- well, let me ask you the more

12:49:38 5 important question. Do you know if she was

12:49:39 6 ever involved in any of the landfill

12:49:42 7 operations?

12:49:45 8 A. No.

12:49:46 9 Q. Okay. Do you know if she has

12:49:49 10 given a deposition or a sworn statement to

12:49:52 11 anyone relating to the landfill?

12:49:54 12 A. No.

12:49:54 13 Q. Okay. If she -- do you have any

12:50:01 14 reason to believe she would be less than

12:50:04 15 truthful if she were asked to give a statement

12:50:06 16 about the landfill?

12:50:06 17 MR. ROMINE: Same objection.

12:50:07 18 THE WITNESS: Yes, she would be

12:50:09 19 truthful.

12:50:09 20 BY MR. HAUGHEY:

12:50:10 21 Q. Okay. How about Eugene Huffman?

12:50:14 22 A. Eugene was his nephew, my dad's

12:50:21 23 nephew, and he was a prominent dentist here in

12:50:24 24 Dayton.

12:50:28 25 Q. Okay. How old is -- is Eugene

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12:50:28 1 alive?

12:50:32 2 A. He's deceased.

12:50:32 3 Q. He's deceased?

12:50:33 4 A. Yes.

12:50:33 5 Q. Okay. Did he have any involvement

12:50:35 6 at the landfill?

12:50:35 7 A. No.

12:50:36 8 Q. Okay. All right. Let's talk

12:50:40 9 about your involvement. I believe you

12:50:44 10 testified in your deposition in 2012 that you

12:50:47 11 started to work at the landfill when you were

12:50:49 12 somewhere around eight?

12:50:50 13 A. Um-hum.

12:50:50 14 Q. Would that be correct?

12:50:51 15 A. Yes. Yes.

12:50:52 16 Q. And you were born in 1952.

12:50:53 17 correct?

12:50:57 18 A. Correct.

12:50:57 19 Q. So you would have been -- 1960 or

12:50:57 20 so?

12:51:01 21 A. Right.

12:51:01 22 Q. Okay. So the -- but I believe you

12:51:02 23 also testified earlier the landfill was open

12:51:04 24 between 1950 and 1960 as well, correct?

12:51:08 25 A. Well, I -- I don't know if -- I

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12:51:10 1 don't know the exact year they started, but I

12:51:12 2 know only from Dad's and Horace speaking of it.

12:51:19 3 that -- that --

12:51:20 4 Q. So the bottom line is, you have no

12:51:23 5 recollection of the landfill prior to 1960.

12:51:22 6 correct?

12:51:23 7 A. Right.

12:51:23 8 Q. At least no personal recollection?

12:51:25 9 A. No.

12:51:26 10 Q. Okay. All right. Am I correct

12:51:28 11 that you testified in your deposition in 2012

12:51:31 12 that you were involved in some salvage work at

12:51:35 13 the site, among other things, is that correct?

12:51:36 14 A. Correct.

12:51:38 15 Q. Cutting drums up at the site?

12:51:38 16 A. Correct.

12:51:39 17 Q. Loading skids?

12:51:39 18 A. Correct.

12:51:40 19 Q. Okay. Now, during the time that

12:51:44 20 you started there around 1960, you were still

12:51:49 21 in school, were you not?

12:51:50 22 A. Yes.

12:51:51 23 Q. So you -- you were there

12:51:52 24 part-time --

12:51:53 25 A. Well --

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12:51:54 1 Q. -- while you were in school?

12:51:56 2 A. Yeah. Yes.

12:51:57 3 Q. Okay. Okay. Now, I believe you

12:52:04 4 also testified in your deposition that when you

12:52:07 5 got to be about 16, you stopped working at the

12:52:11 6 landfill, quit school and went to work for

12:52:14 7 Doyle Auto Salvage, correct?

12:52:16 8 A. Correct.

12:52:17 9 Q. Okay. So between the age -- let's

12:52:24 10 see. How old would you have been when you were

12:52:25 11 16 if you were born in 1952? So it would have

12:52:29 12 been 1968?

12:52:31 13 A. Yeah, about '68.

12:52:32 14 Q. Yeah, about 1968.

12:52:32 15 A. About '68.

12:52:32 16 Q. Okay. So you stopped working

12:52:37 17 part-time at the landfill around age 16. So

12:52:42 18 you were there about eight years or so working

12:52:44 19 part-time while you were in school, correct?

12:52:47 20 A. I had quit school at that time.

12:52:48 21 Q. You quit school when you were 16?

12:52:50 22 A. Right.

12:52:50 23 Q. Right. Okay. I believe you

12:52:53 24 testified in your deposition in 2012 that you

12:52:54 25 also left the landfill between the ages of 17

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13:53:00 1 and 18 to drive a dozer for Powell Road  
 13:53:03 2 Landfill, correct?  
 13:53:04 3 A. Correct.  
 13:53:04 4 Q. Okay. So how long did you drive  
 13:53:06 5 the dozer for them? Or for that site, excuse  
 13:53:12 6 me.  
 13:53:16 7 A. The dozer experience -- the dozer  
 13:53:16 8 experience probably wasn't maybe a few months  
 13:53:19 9 during the summer until Alcine drew my  
 13:53:23 10 attention to work for him.  
 13:53:25 11 Q. Okay. Now, I also recall  
 13:53:28 12 from your deposition that you came back to  
 13:53:32 13 the landfill after working at the Powell  
 13:53:36 14 Road Landfill and worked off and on at the  
 13:53:37 15 site until you were around 26, 27, is that  
 13:53:37 16 correct?  
 13:53:41 17 A. No, I -- I was -- was working  
 13:53:44 18 full-time at the dump at that time. I was --  
 13:53:50 19 started helping A.E. Fickert do remodel -- or  
 13:53:52 20 actually learning how to paint and -- and  
 13:53:56 21 different sorts of things on the weekends,  
 13:53:59 22 sometimes in the evening. That's how I got my  
 13:54:02 23 foot in the door through the Fickert family.  
 13:54:05 24 Q. Okay. So between the ages of  
 13:54:07 25 about 18 and 27, you said you worked part of

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13:54:10 1 that time for A.E. Fickert, is that correct?  
 13:54:12 2 A. Yes.  
 13:54:13 3 Q. Okay. What did you do for them?  
 13:54:15 4 A. I just stated, paint -- I just  
 13:54:19 5 stated I painted mostly.  
 13:54:20 6 Q. Okay. During that time though,  
 13:54:21 7 you weren't working at the landfill, you were  
 13:54:23 8 working for Fickert, correct?  
 13:54:24 9 A. No, I was still --  
 13:54:24 10 MR. ROMINE: Objection.  
 13:54:24 11 THE WITNESS: Like I mentioned --  
 13:54:25 12 MR. ROMINE: Mischaracterizes his  
 13:54:26 13 testimony.  
 13:54:26 14 THE WITNESS: -- I would do it on the  
 13:54:29 15 weekends and evenings and still, you know, did the  
 13:54:34 16 bull -- bulldozer and -- I really have never not  
 13:54:41 17 been at the dump.  
 13:54:42 18 I was there -- because I -- I was  
 13:54:44 19 told I was going to be owner some day and so I  
 13:54:47 20 wanted to make sure I knew all the operation.  
 13:54:52 21 BY MR. HAUGHEY:  
 13:54:52 22 Q. But -- but you also testified that  
 13:54:54 23 you worked at Liberal Foods for a while as  
 13:54:54 24 well, correct?  
 13:54:56 25 A. I took that on for a while, yeah.

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13:54:59 1 Q. Okay. All right. So the bottom  
 13:55:00 2 line is, you weren't there all the time, but  
 13:55:01 3 you were there, in your view, a lot of the time  
 13:55:03 4 during 18 to 27?  
 13:55:05 5 A. Well, when I worked at Liberal  
 13:55:06 6 Markets it wasn't very far away, and I'd go  
 13:55:09 7 down and see Uncle Kenny and -- and find out if  
 13:55:11 8 he needed any help with the tickets or -- he  
 13:55:14 9 broke down bicycles and stuff like that, and I  
 13:55:17 10 would get stuff off of him and keep more TVs  
 13:55:22 11 and -- so usually in the winter, I didn't like  
 13:55:28 12 being down there because it was so darn cold  
 13:55:31 13 and so, I tried to get somewhere warm and --  
 13:55:33 14 Q. So during the winter when it was  
 13:55:34 15 cold, you weren't at the landfill that often?  
 13:55:37 16 A. Not as often, no.  
 13:55:38 17 Q. Okay. So when would you say  
 13:55:41 18 age-wise you stopped basically working at the  
 13:55:44 19 landfill even part-time?  
 13:55:50 20 A. In the mid '80s. Maybe '84, I  
 13:55:55 21 think.  
 13:56:00 22 Q. Okay. Let me ask you: In this  
 13:56:04 23 morning's direct exam, you seemed to have a  
 13:56:05 24 very strong memory of how frequent customers  
 13:56:11 25 sent waste to the site. Do you remember that

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13:56:12 1 testimony?  
 13:56:13 2 A. Yes.  
 13:56:14 3 Q. Okay. If you only worked there  
 13:56:17 4 part-time and had other jobs where you came and  
 13:56:20 5 went and stayed away in the wintertime, how  
 13:56:24 6 would you be in a position to accurately  
 13:56:26 7 measure the frequency by which people sent  
 13:56:29 8 waste to the site when you weren't there at  
 13:56:31 9 those times?  
 13:56:32 10 A. Through either David or -- David  
 13:56:37 11 Grillot or Bud, Bud Young, because, you know,  
 13:56:42 12 we kept in contact, because if their -- if they  
 13:56:47 13 would have keys, I think I mentioned, to go  
 13:56:49 14 there at night, and if they had super big  
 13:56:52 15 loads, I'd see if Dave needed any help sorting  
 13:56:55 16 them out and stuff like that, and then I'd talk  
 13:56:59 17 to Bud about the operation and --  
 13:57:01 18 Q. Okay. So it's secondhand --  
 13:57:01 19 A. Right.  
 13:57:02 20 MR. ROMINE: Objection.  
 13:57:02 21 BY MR. HAUGHEY:  
 13:57:02 22 Q. -- knowledge.  
 13:57:03 23 MR. ROMINE: Objection.  
 13:57:05 24 Mischaracterizes his testimony.  
 13:57:06 25 BY MR. HAUGHEY:

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13:57:08 1 Q. Okay. Thank you. Let's talk a  
 13:57:08 2 little bit about how the landfill charged its  
 13:57:11 3 customers, okay?  
 13:57:12 4 Let's talk first about residential  
 13:57:14 5 customers. If I wanted to clean out my garage  
 13:57:19 6 or tear off the shingles of my roof and wanted  
 13:57:22 7 to find a place to dump it in the 1960s and  
 13:57:24 8 chose this landfill, what would happen when I  
 13:57:29 9 got to the front door?  
 13:57:31 10 A. Kenneth would first inspect it.  
 13:57:35 11 see what it was, and if it was anything of  
 13:57:37 12 value -- the front of the trailer at that time  
 13:57:39 13 was -- looked like a yard sale, and he'd take  
 13:57:47 14 the stuff off of there, and then he had a scale  
 13:57:50 15 that he would use for -- like a trunk would be  
 13:57:53 16 three dollars, a pickup five, a bigger truck  
 13:57:57 17 would be ten, so --  
 13:57:58 18 Q. What do you mean a scale? You  
 13:58:00 19 mean you drove -- if you had a truck, you drove  
 13:58:02 20 it onto a scale?  
 13:58:03 21 A. No, no, no. He -- in his mind,  
 13:58:09 22 he would -- much pretty much he would charge  
 13:58:07 23 what he wanted to charge, so, you know.  
 13:58:08 24 Q. Okay. Would he charge based on  
 13:58:10 25 what he thought was salvageable value materials

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13:58:13 1 in the truck?  
 13:58:14 2 A. No.  
 13:58:15 3 Q. Okay. Then how did he determine  
 13:58:16 4 how much to charge?  
 13:58:17 5 A. Well, it was a car trunk, three  
 13:58:20 6 dollars. If it was a truck, no matter what he  
 13:58:22 7 took off to put in front of it, it was still  
 13:58:24 8 five or ten dollars.  
 13:58:26 9 Q. Okay. If I walked -- if I came  
 13:58:27 10 into that landfill with a truckload of a couple  
 13:58:31 11 of tons of pure copper, obviously a high resale  
 13:58:37 12 value, would he charge me to give him that  
 13:58:39 13 copper?  
 13:58:40 14 A. Yes.  
 13:58:40 15 Q. Even though he was going to turn  
 13:58:43 16 around and salvage it?  
 13:58:44 17 A. Yes.  
 13:58:44 18 Q. Okay. Did these people pay -- did  
 13:58:49 19 they pay -- did Kenneth pay anyone to dump at  
 13:58:55 20 the site because the material being dumped was  
 13:58:57 21 very valuable?  
 13:58:58 22 A. No.  
 13:58:58 23 Q. Okay.  
 13:59:11 24 (Interruption in the proceedings.)  
 13:59:12 25 MR. HAUGHEY: Let's go off the

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13:59:13 1 record.  
 13:59:13 2 (Pause in proceeding.)  
 13:59:13 3 MR. HAUGHEY: Let's continue.  
 13:59:34 4 BY MR. HAUGHEY:  
 13:59:34 5 Q. When people -- when nonindustrial  
 13:59:37 6 customers brought materials to the site,  
 13:59:39 7 residential and what have you, they paid cash  
 13:59:42 8 to Kenneth?  
 13:59:42 9 A. Correct.  
 13:59:43 10 Q. What did Kenneth do with the  
 13:59:45 11 money?  
 13:59:47 12 A. He would put it in his pocket.  
 13:59:48 13 You know, he had a big fold of money, and I  
 13:59:51 14 would assume he was truthful and --  
 13:59:54 15 Q. Okay. Did anyone else inspect the  
 13:59:57 16 loads when they came to the site?  
 14:00:00 17 A. Well, if I was close by, maybe in  
 14:00:04 18 the back cutting up drums, he would yell to me,  
 14:00:07 19 Ed, take them down. So I would take them to  
 14:00:10 20 wherever -- whatever they had on their trucks.  
 14:00:11 21 Q. Okay. Now, we're not talking --  
 14:00:13 22 we're not talking about taking them down  
 14:00:14 23 somewhere. We're talking about doing the  
 14:00:15 24 inspection when you arrive there and taking the  
 14:00:19 25 money.

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14:00:19 1 A. Okay.  
 14:00:19 2 Q. Did you ever do that?  
 14:00:21 3 A. If Kenneth was at lunch, I would.  
 14:00:24 4 Q. Okay. Did anyone else do it as  
 14:00:26 5 well --  
 14:00:26 6 A. No.  
 14:00:28 7 Q. -- besides you sometimes and  
 14:00:27 8 Kenneth most of the time?  
 14:00:29 9 A. No. No.  
 14:00:30 10 Q. Okay. So there were no written  
 14:00:34 11 records of waste disposal at the site by  
 14:00:40 12 residential customers, correct?  
 14:00:41 13 A. No.  
 14:00:41 14 Q. Okay. All right. Let's talk  
 14:00:46 15 about nonresidential. If I was not a regular  
 14:00:48 16 customer of the landfill and just came there  
 14:00:52 17 and took some C and D, construction demolition  
 14:00:57 18 debris from a job site and wanted to dump it,  
 14:00:59 19 would I pay cash along just as a private  
 14:01:04 20 resident or private homeowner would do?  
 14:01:07 21 A. It was -- be only if you had an  
 14:01:12 22 account with Alcine.  
 14:01:12 23 Q. Okay. Let me back up. As I  
 14:01:15 24 understood from your deposition, there were  
 14:01:17 25 three classes of customers; residential

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14:01:20 1 customers who paid cash, regular industrial  
 14:01:24 2 customers on a charge system, and then a group  
 14:01:28 3 of customers in between the two, they weren't  
 14:01:31 4 residential and they weren't regular industrial  
 14:01:33 5 customers. Are those the three classes?  
 14:01:36 6 A. Yes.  
 14:01:37 7 Q. Okay. Let's talk about the middle  
 14:01:39 8 class.  
 14:01:39 9 A. Okay.  
 14:01:39 10 Q. If you're not a regular customer  
 14:01:41 11 and you just have a job -- construction  
 14:01:44 12 demolition job and you want to haul down there,  
 14:01:48 13 how did those people pay? Did they pay cash  
 14:01:51 14 like residential customers?  
 14:01:52 15 A. Correct.  
 14:01:53 16 Q. Okay. All right. So only the  
 14:01:56 17 quote, unquote, regular industrial customers  
 14:01:58 18 were on a charge, correct?  
 14:02:00 19 A. Correct.  
 14:02:01 20 Q. Okay. How did you get to become a  
 14:02:03 21 regular industrial customer?  
 14:02:05 22 A. Like I said just a few minutes  
 14:02:07 23 ago, they'd have to go through Alcine, and I  
 14:02:10 24 didn't know what his process was.  
 14:02:13 25 Q. Okay. So some -- am I safe in

14:02:17 1 assuming then that at some level of frequency,  
 14:02:20 2 you got to be such a regular customer, that  
 14:02:23 3 Alcine or Alcine would say, hey, I'll put you  
 14:02:26 4 on a charge?  
 14:02:27 5 A. Correct.  
 14:02:27 6 Q. Okay. All right. Now, how did  
 14:02:29 7 Kenneth handle shipments to the site from  
 14:02:34 8 regular industrial customers?  
 14:02:37 9 A. I don't understand the question.  
 14:02:38 10 Q. Well, I mean, did he -- well,  
 14:02:41 11 here, I'll tell you what. Why don't we do  
 14:02:43 12 this: I'm going hand you a document that was  
 14:02:47 13 marked at your 2012 deposition as Grillot  
 14:02:53 14 Deposition Exhibit 3 --  
 14:02:55 15 A. Okay.  
 14:02:56 16 Q. -- and see if you remember that  
 14:02:58 17 exhibit from your deposition.  
 14:03:02 18 A. Um-hum.  
 14:03:03 19 Q. Okay. Now, those are the dump  
 14:03:06 20 tickets used for regular industrial customers,  
 14:03:08 21 correct?  
 14:03:09 22 A. These would be the ones I stapled  
 14:03:10 23 together according to alphabetical order.  
 14:03:16 24 Q. Okay. Well, let me -- let me -- I  
 14:03:18 25 don't you think you answered my question --

14:03:18 1 A. Okay.  
 14:03:18 2 Q. -- so it's important I get an  
 14:03:20 3 answer. Are -- is this the -- is Exhibit 3  
 14:03:23 4 from your 2012 deposition, an example of the  
 14:03:26 5 dump tickets that were issued to regular  
 14:03:30 6 industrial customers?  
 14:03:30 7 A. Correct.  
 14:03:30 8 Q. Okay. Okay. Now, on Exhibit 3,  
 14:03:35 9 is this your handwriting or is that Kenneth's  
 14:03:39 10 handwriting, to the best of your knowledge?  
 14:03:43 11 A. That would be Kenneth.  
 14:03:44 12 Q. Okay. So for some of the regular  
 14:03:48 13 industrial customers, would you fill out the  
 14:03:51 14 dump ticket?  
 14:03:53 15 A. It would only be if he was away --  
 14:03:53 16 Q. Right. If he was --  
 14:03:55 17 A. -- for lunch --  
 14:03:58 18 Q. -- away for -- okay.  
 14:03:58 19 A. -- or down at the bottom of the  
 14:04:00 20 pit or something.  
 14:04:00 21 Q. Okay. Now, I believe you  
 14:04:02 22 testified a little earlier that there was two  
 14:04:07 23 parts to the dump ticket. One part would go to  
 14:04:10 24 the customer and one part would be kept by  
 14:04:13 25 Kenneth, is that correct?

14:04:13 1 A. Correct.  
 14:04:14 2 Q. Okay. So is this a two-part  
 14:04:20 3 ticket? Is this -- is this two tickets showing  
 14:04:22 4 two parts or four tickets on Exhibit 3?  
 14:04:28 5 A. That would be four individual  
 14:04:30 6 tickets.  
 14:04:30 7 Q. Okay. Well, which is it in this  
 14:04:34 8 picture? Is this the ticket that went to the  
 14:04:36 9 customer or the ticket that was kept by Kenneth  
 14:04:40 10 at the site?  
 14:04:41 11 A. It looks like one that -- well,  
 14:04:46 12 I'm not sure.  
 14:04:45 13 Q. Okay. But did the two pieces of  
 14:04:50 14 the ticket look the same?  
 14:04:51 15 A. One was more like a piece of  
 14:04:53 16 cardboard, it was a little thicker in density.  
 14:04:57 17 The other was more like a -- it had some -- the  
 14:05:01 18 film that -- ink film thing and then it had  
 14:05:04 19 the -- the copy underneath of it.  
 14:05:08 20 Q. Okay. What would Kenneth, and  
 14:05:11 21 then occasionally you, do with these tickets  
 14:05:14 22 once you collected them from a regular  
 14:05:17 23 industrial customer? What would happen to  
 14:05:17 24 them?  
 14:05:19 25 A. I would sort them out, like I said

14:05:22 1 before, and -- and staple them together  
 14:05:24 2 alphabetically, and then Alcine would pick them  
 14:05:27 3 up.  
 14:05:37 4 Q. Okay. Let me hand you back  
 14:05:39 5 Exhibit 3. By alphabetically, are you talking  
 14:05:39 6 about taking the handwritten notation on the  
 14:05:37 7 ticket out to the customer and then arranging  
 14:05:39 8 the tickets alphabetically by name?  
 14:05:41 9 A. Correct. This would be D.  
 14:05:42 10 Q. This would be D?  
 14:05:44 11 A. Um-hum.  
 14:05:44 12 Q. Okay. Thank you. Then what would  
 14:05:44 13 happen to the dumping tickets, or dumping  
 14:05:49 14 receipts, as I guess they're called?  
 14:05:50 15 A. Alcine would pick them up.  
 14:05:52 16 Q. From Kenneth?  
 14:05:54 17 A. Well, they would be sitting on the  
 14:05:56 18 desk, and I mentioned through the week -- we  
 14:05:59 19 usually got them, like I said, the end of the  
 14:06:01 20 week when we'd get paid, all of us, and he  
 14:06:04 21 would bulldoze and then go home.  
 14:06:06 22 Q. Now, Alcine's wife is Leone,  
 14:06:10 23 correct?  
 14:06:10 24 A. Correct.  
 14:06:11 25 Q. Okay. As I understood your

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14:06:13 1 testimony earlier, that she's the one who then  
 14:06:14 2 took the tickets and sent out the bills to the  
 14:06:18 3 regular customers, correct?  
 14:06:19 4 A. Correct.  
 14:06:20 5 Q. Okay. Okay. Where -- where are  
 14:06:22 6 all the rest of these tickets?  
 14:06:25 7 A. They were in Alcine's house  
 14:06:27 8 somewhere, and then --  
 14:06:30 9 Q. Okay.  
 14:06:33 10 MR. COLLIER: Are you going  
 14:06:33 11 to complete your testimony? Did you finish your  
 14:06:36 12 answer?  
 14:06:38 13 THE WITNESS: Are you talking to me?  
 14:06:39 14 MR. COLLIER: Yes, did you finish  
 14:06:39 15 your answer?  
 14:06:41 16 THE WITNESS: Did I what?  
 14:06:43 17 MR. COLLIER: Okay. Could you read  
 14:06:43 18 back the last question and answer to make sure we  
 14:06:43 19 have a complete answer?  
 14:06:43 20 (Record read.)  
 14:06:43 21 BY MR. HAUGHEY:  
 14:06:52 22 Q. Right. And then what?  
 14:06:54 23 A. I don't know what happened. I  
 14:06:57 24 asked David one time, and he said when they  
 14:07:01 25 both had died that -- and he inherited it, him

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14:07:07 1 and his sister threw them away.  
 14:07:07 2 MR. COUGHLIN: I'm sorry, when he  
 14:07:12 3 inherited what? What -- what did you say?  
 14:07:12 4 THE WITNESS: When he inherited his  
 14:07:14 5 dad's property, him and his sister, that -- they  
 14:07:18 6 threw them away.  
 14:07:21 7 BY MR. HAUGHEY:  
 14:07:21 8 Q. Okay. Are we talking about boxes  
 14:07:24 9 and boxes of tickets --  
 14:07:25 10 A. Oh, yeah --  
 14:07:25 11 Q. -- accumulating over time?  
 14:07:27 12 A. Yeah.  
 14:07:28 13 Q. Okay. So -- okay. I'm trying  
 14:07:30 14 to -- see, we're trying to get a picture of  
 14:07:32 15 where they might be if they are around at all,  
 14:07:35 16 okay? So I don't want to put words in your  
 14:07:36 17 mouth.  
 14:07:37 18 A. Right.  
 14:07:37 19 Q. The tickets would be collected by  
 14:07:41 20 Kenneth and you, stapled alphabetically, given  
 14:07:44 21 to Alcine, and then his wife, Leone, would send  
 14:07:48 22 out the bills, correct?  
 14:07:49 23 A. Correct.  
 14:07:50 24 Q. Okay.  
 14:07:50 25 MR. ROMINE: Asked and answered.

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14:07:50 1 BY MR. HAUGHEY:  
 14:07:50 2 Q. What did -- what did she send the  
 14:07:55 3 bills out on? Did she have some sort of  
 14:07:57 4 invoice form?  
 14:07:57 5 A. I wouldn't know that.  
 14:07:58 6 Q. Did you ever see what the bills  
 14:07:59 7 went out on?  
 14:08:00 8 A. No.  
 14:08:00 9 Q. Did the landfill have a  
 14:08:02 10 letterhead?  
 14:08:05 11 A. South Dayton Dump, yeah.  
 14:08:06 12 Q. Okay. So would bills have gone  
 14:08:07 13 out on a South Dayton Dump letterhead?  
 14:08:09 14 A. I wouldn't know that --  
 14:08:10 15 MR. ROMINE: Asked and answered.  
 14:08:11 16 THE WITNESS: -- because I never saw  
 14:08:12 17 one, you know.  
 14:08:13 18 BY MR. HAUGHEY:  
 14:08:13 19 Q. Okay. Would they possibly have  
 14:08:14 20 gone out on Broadway Sand and Gravel  
 14:08:16 21 letterhead?  
 14:08:16 22 MR. ROMINE: Asked and answered.  
 14:08:22 23 THE WITNESS: That's a strong  
 14:08:23 24 possibility.  
 14:08:23 25 BY MR. HAUGHEY:

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14:08:23 1 Q. Okay. Do you know where there  
14:08:24 2 might be records that still remain from  
14:08:29 3 Broadway Sand and Gravel?  
14:08:35 4 A. Casey Jones probably would've had  
14:08:38 5 them, but I'm pretty sure he's deceased.  
14:08:40 6 Q. And who's Casey Jones?  
14:08:42 7 A. Casey Jones was like Doyle. Dad  
14:08:45 8 brought him -- brought them both up at the same  
14:08:48 9 time and he started them in business from sand  
14:08:51 10 and gravel, and they would dig the pit -- they  
14:08:53 11 were starting another pit south of the landfill  
14:08:55 12 for future dumping and they would sell the  
14:08:58 13 gravel and stuff to -- and split it with the  
14:09:01 14 brothers.  
14:09:03 15 Q. Okay. Do you know if Kenneth or  
14:09:06 16 Alcine or Leone -- is it Leona?  
14:09:11 17 A. Leone.  
14:09:14 18 Q. Leone -- maintained any other  
14:09:17 19 written records for the site, such as a ledger  
14:09:20 20 or a log?  
14:09:23 21 A. There -- I saw the checkbook where  
14:09:26 22 he paid all of us, and it was -- you know, it  
14:09:29 23 was a book, maybe eight by 18 or something,  
14:09:32 24 and -- I believe it was a checkbook, and  
14:09:35 25 records of payments would go out from that.

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14:09:47 1 Not -- other than that, I didn't  
14:09:49 2 know what happened at their home, because I  
14:09:53 3 didn't -- was never aware of it.  
14:09:56 4 Q. Do you know when the South Dayton  
14:10:00 5 Dump site began to use dumping receipts or  
14:10:00 6 dumping tickets?  
14:10:05 7 A. No, I don't.  
14:10:07 8 Q. Do you know if they ever -- if the  
14:10:11 9 landfill ever stopped using dumping receipts or  
14:10:13 10 dumping tickets?  
14:10:16 11 A. I wouldn't know that either.  
14:10:16 12 Q. Do you know what criteria Alcine  
14:10:21 13 or Kenneth used to determine who would be  
14:10:23 14 considered a regular customer and put on a  
14:10:29 15 charge system for billing?  
14:10:29 16 A. I wouldn't know that.  
14:10:30 17 Q. Okay. Do you know if there was  
14:10:32 18 any criteria like that where it might have been  
14:10:35 19 written down somewhere?  
14:10:36 20 A. I wouldn't know that.  
14:10:38 21 Q. Okay. Do you have an opinion,  
14:10:41 22 your own personal opinion, about how regular a  
14:10:45 23 customer would need to be before they were  
14:10:48 24 moved over to the charge system?  
14:10:50 25 MR. ROMINE: Objection to the form.

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14:11:51 1 THE WITNESS: I wouldn't know that  
14:11:52 2 either.  
14:11:53 3 BY MR. HAUGHEY:  
14:11:53 4 Q. I didn't ask you whether you knew  
14:11:55 5 it. I asked if you have an opinion.  
14:11:58 6 MR. ROMINE: Asked and answered.  
14:11:58 7 Objection to the form.  
14:12:01 8 THE WITNESS: My -- my opinion, I --  
14:12:01 9 the companies were very well known and very high  
14:12:04 10 up, and he was Mayor of Moraine, so I don't think  
14:12:11 11 he cared, so, you know. He was going to get his  
14:12:12 12 money one way or another. That's my opinion.  
14:12:13 13 BY MR. HAUGHEY:  
14:12:13 14 Q. Okay. And customers who had a key  
14:12:17 15 of their own, would they all be regular  
14:12:19 16 customers billed on a charge system?  
14:12:21 17 A. Correct.  
14:12:23 18 Q. Okay. So that's one criteria,  
14:12:24 19 correct, having a key?  
14:12:26 20 A. Right.  
14:12:28 21 Q. Okay. If you had the right to  
14:12:29 22 dump at the landfill at night, would that mean  
14:12:32 23 you were a regular customer on the charge  
14:12:34 24 system?  
14:12:34 25 A. Correct.

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14:12:35 1 Q. Okay. Let me talk about that for  
14:12:37 2 a second. I'm assuming that Kenneth and you  
14:12:41 3 weren't working at night when people with keys  
14:12:44 4 or otherwise having access to the landfill at  
14:12:46 5 night brought their loads in, correct?  
14:12:48 6 A. Correct, but Bud would.  
14:12:51 7 Q. Okay. So if Bud, who lived at the  
14:12:54 8 site, saw people dumping at night, would he go  
14:12:57 9 out and prepare a dumping receipt or dumping  
14:12:59 10 ticket for that customer?  
14:13:02 11 A. No, I think they had other  
14:13:05 12 arrangements, because I don't -- I didn't ever  
14:13:07 13 see tickets in the morning, so I -- you know,  
14:13:11 14 so --  
14:13:13 15 Q. Okay. So --  
14:13:13 16 A. And I -- you know, but I don't  
14:13:15 17 know that, so --  
14:13:15 18 Q. Yeah. Let me -- let me go there,  
14:13:18 19 because if someone was a regular customer  
14:13:20 20 coming at night with its own key, how would --  
14:13:22 21 how would they -- were they on the honor system  
14:13:24 22 and they just called up Kenneth or Alcine and  
14:13:26 23 said, hey, this -- I have 25 loads, this --  
14:13:28 24 this month at -- at night? I mean, how  
14:13:34 25 did they --

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14:12:05 1 A. I wouldn't know.

14:12:05 2 Q. -- be charged?

14:12:07 3 A. I wouldn't know.

14:12:08 4 Q. Would they possibly have been

14:12:41 5 significantly undercharged if they used the

14:12:42 6 landfill a lot at night and there were no

14:12:44 7 records?

14:12:45 8 MR. ROMINE: Objection. Asked and

14:12:45 9 answered.

14:12:46 10 THE WITNESS: Could have.

14:12:46 11 BY MR. HAUGHEY:

14:12:46 12 Q. Yeah. Okay. Let's talk about

14:12:51 13 frequency. If I brought waste to the site as a

14:12:57 14 customer every day, in your experience, would

14:13:01 15 that have been a regular customer that moved

14:13:04 16 over to the charge system?

14:13:04 17 A. Correct.

14:13:05 18 MR. ROMINE: Objection to the form of

14:13:06 19 the question.

14:13:06 20 BY MR. HAUGHEY:

14:13:06 21 Q. Okay.

14:13:06 22 A. Correct.

14:13:08 23 Q. Okay. How about once a month?

14:13:12 24 MR. ROMINE: Same objection.

14:13:14 25 THE WITNESS: The same, that they

14:13:15 1 would be on the -- if they were -- you know, had a

14:13:19 2 charge, you know, once they would drive up -- say

14:13:24 3 I was taking Kenny's place -- Kenneth's place for

14:13:28 4 whatever, you know, if I didn't recognize them,

14:13:30 5 I'd say do you have a charge here, and then they

14:13:32 6 would tell me, and then I would just fill out the

14:13:34 7 ticket and the name of the person or the company

14:13:36 8 that was dumping.

14:13:38 9 BY MR. HAUGHEY:

14:13:38 10 Q. Okay. Am I understanding you

14:13:41 11 correctly that you're answering my question,

14:13:43 12 yes, someone who delivered waste once a month

14:13:47 13 would likely be a charge customer?

14:13:49 14 MR. ROMINE: Same objection.

14:13:49 15 THE WITNESS: Yes, like Pickert.

14:13:51 16 Pickert was, you know, not as frequent as, say,

14:13:58 17 Frigidaire or McCall's or whatever.

14:13:59 18 BY MR. HAUGHEY:

14:14:01 19 Q. Okay. What if I -- what if I were

14:14:04 20 a customer that came every season, would that

14:14:06 21 be a customer that would likely be a charge

14:14:10 22 customer?

14:14:10 23 MR. ROMINE: Same objection.

14:14:11 24 THE WITNESS: I wouldn't know that.

14:14:11 25 BY MR. HAUGHEY:

14:14:12 1 Q. Okay. So you don't know -- I

14:14:14 2 believe you testified every week, every day as

14:14:18 3 being regular customers on the charge system,

14:14:20 4 correct?

14:14:20 5 A. There was a lot more others, you

14:14:20 6 know --

14:14:20 7 Q. Yeah.

14:14:23 8 A. -- that we -- that you just said,

14:14:27 9 you know, it could -- but if they a were

14:14:30 10 well-established company, and -- and you

14:14:32 11 know --

14:14:36 12 Q. If -- would the list of regular

14:14:39 13 customers on the charge system be dominated by

14:14:43 14 companies that were close to the site, and,

14:14:46 15 therefore, might have used it regularly?

14:14:48 16 MR. ROMINE: Objection. Vague.

14:14:49 17 Calls for opinion.

14:14:50 18 THE WITNESS: That's possible.

14:14:51 19 BY MR. HAUGHEY:

14:14:52 20 Q. Okay. Let's talk about some

14:14:54 21 customers. Was GM, Delphi, Frigidaire, Inland

14:14:59 22 and all the related GM entities, were they a

14:15:03 23 regular customer on the charge system?

14:15:04 24 A. Correct.

14:15:05 25 Q. Did they have a key to come to the

14:15:09 1 landfill at night?

14:15:10 2 A. Some of them, I believe, did.

14:15:12 3 Q. How about NCR?

14:15:19 4 A. I wouldn't know that. Most of

14:15:22 5 them -- most of them that came were the -- the

14:15:28 6 majority of them were the skids that went to

14:15:31 7 the incinerator, and so others, you know, we --

14:15:37 8 to my recollection, were day -- day customers,

14:15:40 9 other than the -- the General Refuge and

14:15:47 10 Container Service, and I know all them drivers

14:15:49 11 had keys, so --

14:15:52 12 Q. Okay. What was -- why, because

14:15:52 13 they would dump when the landfill wasn't open?

14:15:57 14 A. Well, with dumping industrial

14:16:02 15 waste, usually most of their drivers, I've

14:16:03 16 learned through experience, is that they would

14:16:04 17 make most of the deliveries at night,

14:16:11 18 therefore, the majority of garbage from

14:16:13 19 restaurants and stuff like that would go to

14:16:15 20 Powell and then the remaining ones would go to

14:16:19 21 South Dayton Dump.

14:16:20 22 Q. Okay. Give me the list from your

14:16:24 23 recollection of every customer that you recall

14:16:28 24 having a key and the right to dump at night.

14:16:33 25 A. All of --

14:16:33 1 Q. Yeah.

14:16:34 2 A. General Refuge.

14:16:34 3 Q. Just tell me every one you can

14:16:37 4 remember. General Refuse?

14:16:38 5 A. Um-hum. Container Service.

14:16:44 6 Frigidaire. McCall's. I think that's it.

14:16:54 7 BY MR. HAUGHEY:

14:16:54 8 Q. How about Dayton-Walther?

14:16:56 9 A. No.

14:16:57 10 Q. Okay. All right. Why don't you

14:17:08 11 give me the names -- please give me the names

14:17:10 12 of all the Dayton area waste hauling companies

14:17:15 13 who you remember delivering waste to this site.

14:17:21 14 A. Rephrase that, if you would,

14:17:21 15 please.

14:17:22 16 Q. Yeah. Please give me the names of

14:17:24 17 all of the Dayton area waste hauling companies

14:17:27 18 who you remember delivering waste to this site.

14:17:33 19 A. Well, waste hauling would narrow

14:17:38 20 it down to Container Service and General

14:17:40 21 Refuge.

14:17:40 22 Q. Okay. Do you know where those

14:17:43 23 two -- there were no others, is that correct,

14:17:44 24 that you can remember?

14:17:45 25 A. That I can remember, because they

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14:17:52 1 were -- they were actually companies that, you

14:17:55 2 know, was like the middleman, they picked up

14:17:58 3 something from here and brought it over here,

14:18:00 4 so --

14:18:01 5 Q. So to the best of your

14:18:02 6 recollection, there were no other middlemen, as

14:18:05 7 you called them, who hauled waste for people to

14:18:08 8 this site?

14:18:09 9 A. You're correct.

14:18:10 10 Q. Okay. All right. Now, where --

14:18:14 11 where was General Refuse business operation

14:18:21 12 located?

14:18:24 13 A. Less than a half a mile from the

14:18:26 14 dump.

14:18:30 15 Q. Okay. How about Container

14:18:31 16 Service?

14:18:31 17 A. The same. They ran out of the

14:18:33 18 same building.

14:18:33 19 Q. Okay. Were they owned by the same

14:18:38 20 entity?

14:18:38 21 A. Yeah.

14:18:38 22 Q. Okay. So is it a fair statement

14:18:42 23 for me to make that -- that haulers like this

14:18:47 24 would be more inclined to use sites that are

14:18:50 25 closer to where they're located?

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14:18:52 1 MR. ROMINE: Objection. Vague.

14:18:54 2 Object to the form of the question.

14:18:55 3 THE WITNESS: I wouldn't know that.

14:19:04 4 BY MR. HAUGHEY:

14:19:04 5 Q. Okay. But I believe you testified

14:19:07 6 that each -- that Container Service and General

14:19:00 7 Refuse was less than a half mile away from the

14:19:03 8 site, correct?

14:19:03 9 MR. ROMINE: Asked and answered.

14:19:04 10 THE WITNESS: Correct.

14:19:05 11 BY MR. HAUGHEY:

14:19:08 12 Q. Okay. And you couldn't remember

14:19:07 13 any other haulers even using the site, correct?

14:19:10 14 MR. ROMINE: Asked and answered.

14:19:12 15 THE WITNESS: Correct.

14:19:12 16 BY MR. HAUGHEY:

14:19:13 17 Q. Okay. Why didn't other haulers

14:19:15 18 use the site?

14:19:17 19 A. Well, because if any of -- most

14:19:21 20 of -- say, for instance, General Refuge was

14:19:24 21 mostly garbage, and so they would go -- they

14:19:28 22 also had the same key, it was a 2246 key,

14:19:32 23 master key, and it would fit also Powell Road

14:19:34 24 gate, and the garbage would go there, and then

14:19:36 25 they -- I would assume they just waited till

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14:19:43 1 morning sometimes to bring other debris.

14:19:46 2 Q. Were there other Dayton area

14:19:51 3 hauling companies located in this -- in and

14:19:56 4 around the landfill during the time that the

14:19:58 5 landfill was open?

14:19:59 6 A. Not to my recollection.

14:20:04 7 Q. Okay. I'm going to hand you a

14:20:07 8 document that I'd ask the court reporter to

14:20:10 9 identify it as Defendants' Exhibit 1.

14:20:12 10 (Thereupon, Defendants' Exhibit

14:20:13 11 Number 1, map of various landfills, was marked for

14:20:13 12 purposes of identification.)

14:20:13 13 BY MR. HAUGHEY:

14:20:45 14 Q. Mr. Grillot, I'm handing you a

14:20:45 15 document that I'm going to -- a map that --

14:20:48 16 that our firm prepared showing the Dayton area

14:20:54 17 and the location of this landfill and a number

14:20:57 18 of other landfills in and around the Dayton

14:20:57 19 area.

14:21:00 20 If you could take a moment and

14:21:03 21 look at that map and look at the locations of

14:21:07 22 landfills on the map and let me know if, in

14:21:10 23 your opinion, you think it is pretty accurate

14:21:13 24 at identifying where the various landfills were

14:21:16 25 located.

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14:21:17 1 A. Well, F is correct.

14:21:24 2 MR. COUGHLIN: Could I just interrupt

14:21:25 3 you for a second? Do you have extra copies or

14:21:27 4 could you tell us what the witness is testifying

14:21:29 5 about other than it's a map of --

14:21:31 6 MR. HAUGHEY: Yeah. I have a few

14:21:33 7 copies, but like I said, coming here, I had no

14:21:35 8 idea whether it was going to be one -- me here

14:21:37 9 alone or 20, so -- but I can put on the record

14:21:42 10 that the site located as F on the map is the

14:21:44 11 Powell Road Landfill site.

14:21:46 12 BY MR. HAUGHEY:

14:21:50 13 Q. So why don't we move on and check

14:21:52 14 the other sites, and I can -- when you identify

14:21:55 15 each site as to -- as to whether you think it

14:21:58 16 is where it's shown on the map, say yes, and

14:22:01 17 then the tell the court reporter what landfill

14:22:03 18 you're talking about. Could you do that,

14:22:08 19 please?

14:22:09 20 A. Okay.

14:22:06 21 Q. Thank you.

14:22:04 22 MR. COUGHLIN: And, Steve, would you

14:22:08 23 send us copies?

14:22:10 24 MR. HAUGHEY: I'll -- I'll give it to

14:22:10 25 everyone, but you I won't. No, I'm kidding. I

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14:22:15 1 can pass down --

14:22:17 2 MR. COUGHLIN: You don't need to do

14:22:18 3 it now, but --

14:22:18 4 MR. HAUGHEY: I've got a few. Off

14:22:18 5 the record.

14:22:18 6 (Thereupon, an off-the-record

14:22:18 7 discussion was had.)

14:22:17 8 BY MR. HAUGHEY:

14:22:17 9 Q. Okay. Can you continue, Mr.

14:22:19 10 Grillot, and let me know whether we have

14:22:41 11 accurately laid out the existence of the rest

14:22:44 12 of those landfills on the map, please?

14:22:46 13 A. So I need to understand, are we

14:22:48 14 talking about current day or are we talking

14:22:53 15 about what years? Because some of them weren't

14:22:56 16 in existent -- existence at that time.

14:22:58 17 Q. Right, that's -- where they are

14:23:00 18 located today --

14:23:02 19 A. Okay.

14:23:02 20 Q. -- as opposed, you know, for

14:23:04 21 purposes of a cleanup, yeah.

14:23:05 22 A. Okay.

14:23:06 23 Q. Okay.

14:23:08 24 A. A is Duriron, and they're not a

14:23:16 25 landfill or dump, so -- but that's correct in

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14:23:19 1 its location. Do you want me to give the

14:23:22 2 address?

14:23:22 3 Q. No. No, that's okay. Thank you.

14:23:24 4 That's item A, correct?

14:23:28 5 A. Yes.

14:23:28 6 Q. Okay.

14:23:26 7 A. B would be the North incinerator,

14:23:23 8 we call it, and that's North Sanitary Landfill.

14:23:38 9 and that's correct.

14:23:41 10 Q. Isn't that also called the

14:23:41 11 Valleycrest Landfill?

14:23:43 12 A. Correct.

14:23:46 13 Q. Okay. Go ahead, please. That's

14:23:45 14 B, correct?

14:23:47 15 A. Um-hum.

14:23:47 16 Q. Okay.

14:23:48 17 A. C would be S -- what would that be

14:23:54 18 pronounced? E P -- or E -- E S P E.

14:24:00 19 Q. Espe's?

14:24:00 20 A. Espe's?

14:24:00 21 Q. Um-hum.

14:24:03 22 A. Landfill. See, I wouldn't know.

14:24:09 23 I think I know who it is, but I'm not a hundred

14:24:12 24 percent sure, but I would -- I would say it's

14:24:16 25 accurate.

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14:24:16 1 Q. Okay.

14:24:17 2 A. And D, which would be Vance Road,

14:24:19 3 that's accurate, Vance Road Landfill. E, I'm

14:24:38 4 not sure about that location, but it's -- I

14:24:41 5 don't know what that's referring to, but I know

14:24:43 6 the location, so I'm not sure.

14:24:48 7 So E would be Cardington Road

14:24:52 8 Landfill.

14:24:54 9 Q. Is it your testimony you're not

14:24:55 10 sure whether that's accurately showing where

14:24:56 11 that site is located?

14:25:00 12 A. Correct.

14:25:00 13 Q. Okay.

14:25:00 14 A. Because whether it's another name

14:25:03 15 or -- or if the location's not right -- it's

14:25:05 16 wherever -- actually where the incinerator is

14:25:07 17 so -- F would be Powell Road Landfill, and

14:25:11 18 that's correct. G was South Dayton Dump, and

14:25:18 19 that's correct.

14:25:19 20 Q. Okay. The last one is H?

14:25:21 21 A. Pardon me?

14:25:23 22 Q. H.

14:25:23 23 A. H would be North Sanitary

14:25:26 24 Landfill, and that was -- H, that doesn't look

14:25:30 25 correct either.

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14:25:31 1 Q. Is that another name for the  
14:25:33 2 Pinnacle Road Landfill?  
14:25:33 3 A. Yes.  
14:25:34 4 Q. You've never heard of the Pinnacle  
14:25:38 5 Road Landfill?  
14:25:38 6 A. Oh, no, no, no, not Pinnacle, that  
14:25:40 7 would have been -- see, you had the North  
14:25:42 8 incinerator and South incinerator. You got  
14:25:43 9 one -- let's see, you got -- well, both of them  
14:25:47 10 say North and -- because, see, that's South.  
14:25:50 11 Why would it say North Sanitary Landfill? It's  
14:25:52 12 south, so that don't make sense to me.  
14:25:55 13 Q. Okay. So you're not sure about H?  
14:25:56 14 A. No.  
14:25:57 15 Q. Okay. All right. Now, is it fair  
14:25:59 16 to say that Dayton has its share of old  
14:26:07 17 landfills?  
14:26:07 18 MR. ROMINE: Objection. Vague.  
14:26:09 19 THE WITNESS: At the time --  
14:26:10 20 MR. ROMINE: Calls for opinion.  
14:26:11 21 THE WITNESS: -- no.  
14:26:11 22 BY MR. HAUGHEY:  
14:26:13 23 Q. Okay. Dayton had a lot of sand  
14:26:15 24 and gravel sites, correct?  
14:26:15 25 A. Correct.

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14:26:18 1 Q. And isn't it true that a lot of  
14:26:19 2 those sand and gravel sites turned into  
14:26:19 3 landfills?  
14:26:23 4 A. Unless it was really close to the  
14:26:24 5 visible water, you know, where it was protected  
14:26:33 6 under the water protection act, I'll say was  
14:26:36 7 the name, because there was one big one, which  
14:26:38 8 we call -- it's Eastwood Lake. That was a big  
14:26:47 9 place where they got sand and gravel and  
14:26:50 10 limestone for putting in our water. That one  
14:26:54 11 definitely didn't.  
14:26:56 12 NCR had one at their site at one  
14:27:00 13 time back '30s, '40s. That's where the  
14:27:04 14 motel -- the hotel that we're staying at,  
14:27:07 15 that's the location of that, so --  
14:27:08 16 Q. Okay.  
14:27:09 17 A. UD arena had a -- that was  
14:27:13 18 probably the turn of the century and up till  
14:27:18 19 the dump. That was called Shadytown. Shade --  
14:27:23 20 Shadytown or something like that, but that was  
14:27:24 21 a landfill, also, but the South Dayton Dump was  
14:27:27 22 the main -- main dump at that time, so --  
14:27:30 23 Q. The main dump at what time?  
14:27:35 24 A. '50s, '60s, '70s, a little bit of  
14:27:38 25 the '80s.

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14:27:38 1 Q. Okay. And looking at the map,  
14:27:41 2 Defendants' Exhibit 1, if I'm a general hauler  
14:27:46 3 in the Dayton area and I'm hauling up on the  
14:27:49 4 north side of Dayton up in Huber Heights and up  
14:27:53 5 in Triangle Park and up in that area, I'd be  
14:27:57 6 more likely to go to Valleycrest or Powell  
14:28:00 7 Road, wouldn't I?  
14:28:01 8 MR. ROMINE: Objection. Calls for  
14:28:02 9 opinion. Object to the form of the question.  
14:28:04 10 THE WITNESS: No, because Powell Road  
14:28:06 11 really didn't exist until Larry Brandon and his  
14:28:09 12 partners bought that site, and that was late '60s,  
14:28:16 13 to my recollection.  
14:28:18 14 Whether it was there before or not,  
14:28:20 15 I'm not a hundred percent sure, but --  
14:28:20 16 BY MR. HAUGHEY:  
14:28:22 17 Q. Right. But at least in the '60s,  
14:28:24 18 because you worked at the Powell Road  
14:28:24 19 Landfill --  
14:28:27 20 A. Right, the latter --  
14:28:28 21 Q. -- and you were 17, 18 years old,  
14:28:29 22 so --  
14:28:30 23 A. The latter part of it, yeah.  
14:28:31 24 Q. -- you -- yeah, and so it have  
14:28:32 25 been the late '60s, correct?

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14:28:32 1 A. Right.  
14:28:34 2 Q. Okay. So if I'm a hauler up in  
14:28:37 3 that area, once it opened, I'd go there as  
14:28:39 4 opposed to drive all the way down to south  
14:28:42 5 Dayton, wouldn't I?  
14:28:42 6 A. Correct.  
14:28:42 7 Q. Okay.  
14:28:43 8 A. Correct.  
14:28:43 9 MR. ROMINE: Objection.  
14:28:45 10 Hypothetical. Asked and answered and object to  
14:28:46 11 the form of the question.  
14:28:47 12 BY MR. HAUGHEY:  
14:28:47 13 Q. Okay. How about Valleycrest, the  
14:28:49 14 same thing there, if I'm picking up near the  
14:28:53 15 Valleycrest Landfill, I'm going to haul there  
14:28:53 16 as opposed to --  
14:28:53 17 MR. ROMINE: Objection.  
14:28:53 18 BY MR. HAUGHEY:  
14:28:53 19 Q. -- to drive to South --  
14:28:53 20 (Thereupon, the court reporter  
14:28:53 21 interrupted the proceedings.)  
14:28:53 22 BY MR. HAUGHEY:  
14:28:53 23 Q. The same thing with Valleycrest up  
14:28:53 24 on the north side, would my general hauling  
14:28:53 25 customers be haulers that were located

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14:29:14 1 generally around that landfill?

14:29:16 2 MR. ROMINE: Same objection.

14:29:17 3 THE WITNESS: Well, Valleycrest --

14:29:20 4 Valley -- on Valleycrest and the Pinnacle Road

14:29:31 5 were incinerators, and I don't think they were

14:29:32 6 built till the later part of the '70s, so -- and

14:29:35 7 their restrictions were a lot tougher.

14:29:37 8 South Dayton Dump only had

14:29:40 9 restrictions on garbage, so it would depend on

14:29:44 10 what they were hauling.

14:29:44 11 BY MR. HAUGHEY:

14:29:46 12 Q. If -- if there are no restrictions

14:29:48 13 on what could be hauled and if other landfills

14:29:51 14 are open, wouldn't these haulers choose the

14:29:55 15 landfill that's closest to the site where the

14:29:56 16 pickup is being made?

14:29:57 17 MR. ROMINE: Same objection.

14:30:01 18 THE WITNESS: Like I -- yeah. Yeah.

14:30:02 19 BY MR. HAUGHEY:

14:30:02 20 Q. Yeah. Okay. Now, in your

14:30:06 21 deposition in 2012, you testified that you had

14:30:08 22 no memory of Pepsi sending any waste to the

14:30:13 23 site, do you remember that testimony?

14:30:15 24 A. I remember saying that.

14:30:17 25 Q. All right. Do you remember also

14:30:19 1 saying that you didn't think they sent anything

14:30:21 2 up to the site because they were located up

14:30:23 3 north so Powell Road Landfill was closer to

14:30:27 4 them. Do you remember making that statement?

14:30:29 5 A. Correct.

14:30:30 6 Q. All right. So isn't that

14:30:32 7 statement consistent with the general rule that

14:30:34 8 you're going to take the landfills that are

14:30:36 9 closest to your operations as opposed to drive

14:30:39 10 further away, correct?

14:30:40 11 MR. ROMINE: Same objection.

14:30:42 12 THE WITNESS: Well, there's a

14:30:43 13 distinction there, you know, what year it was

14:30:45 14 and --

14:30:45 15 BY MR. HAUGHEY:

14:30:45 16 Q. Yes. Right, with that

14:30:48 17 distinction.

14:30:47 18 A. -- and I was -- I was, more or

14:30:47 19 less, making an assumption not -- not really

14:30:50 20 knowing, so --

14:30:51 21 Q. Okay. All right. But is -- can

14:30:54 22 you think of any logical reason why a hauler

14:30:56 23 that otherwise has a landfill closer to it

14:31:00 24 would haul -- would travel further than needed

14:31:02 25 to dump the waste?

14:31:03 1 MR. ROMINE: Same objection.

14:31:05 2 THE WITNESS: Other than

14:31:06 3 restriction-wise.

14:31:06 4 BY MR. HAUGHEY:

14:31:07 5 Q. Right, other than restrictions.

14:31:07 6 A. Correct.

14:31:09 7 Q. Okay. I mean, these guys were

14:31:11 8 trying to save gas, too, weren't they?

14:31:11 9 A. Pardon me?

14:31:11 10 MR. ROMINE: Objection.

14:31:11 11 BY MR. HAUGHEY:

14:31:14 12 Q. These -- these guys -- these

14:31:15 13 haulers -- well, you talked to haulers when

14:31:16 14 they came into the site, correct, so you -- you

14:31:19 15 talked with them off and on over the years, so

14:31:21 16 you understood how they operated, correct?

14:31:23 17 A. Right.

14:31:25 18 Q. All right. So I'm assuming they

14:31:26 19 were interested in saving a buck just as you

14:31:28 20 were, correct?

14:31:28 21 A. Correct.

14:31:28 22 MR. ROMINE: Objection. Calls for

14:31:29 23 opinion.

14:31:29 24 THE WITNESS: Yes.

14:31:29 25 BY MR. HAUGHEY:

14:31:29 1 Q. All right. So is there a logical

14:31:31 2 reason for them to drive further than they need

14:31:34 3 to drive and use more gas to find a disposal

14:31:38 4 site?

14:31:39 5 MR. ROMINE: Same objection.

14:31:40 6 THE WITNESS: Yeah. You have to

14:31:41 7 realize gas was only 23 cents or seven cents back

14:31:45 8 then, so, you know, we weren't worried. We

14:31:47 9 thought we had all the gas we wanted, you know.

14:31:49 10 BY MR. HAUGHEY:

14:31:49 11 Q. I'll grant you that. Okay. All

14:31:52 12 right. Now --

14:31:54 13 MR. HARBECK: Hey, Steve?

14:31:54 14 MR. HAUGHEY: Yes, sir.

14:31:54 15 MR. HARBECK: We've been at it an

14:31:56 16 hour an half, we need to stretch here.

14:31:58 17 MR. HAUGHEY: I have about a half

14:31:59 18 hour more.

14:32:03 19 MR. HARBECK: Okay. Let's stretch.

14:32:03 20 BY MR. HAUGHEY:

14:32:03 21 Q. Okay. Let's talk about customers

14:32:05 22 that --

14:32:06 23 MR. HARBECK: We'd like a break.

14:32:06 24 MR. COUGHLIN: The whole crowd here

14:32:08 25 would like a break.

14:32:10 1 MR. HAUGHEY: Oh, I thought you were  
 14:32:12 2 wanting me to get moving.  
 14:32:14 3 MR. COUGHLIN: If we could have both,  
 14:32:16 4 it would be like Christmas.  
 14:32:18 5 MR. HAUGHEY: I'll do -- I'll do  
 14:32:19 6 both. All right. Thank you.  
 14:32:20 7 BY MR. HAUGHEY:  
 14:32:22 8 Q. Do you want to take a ten minute  
 14:32:23 9 break, Mr. Grillot?  
 14:32:24 10 A. It's up to you guys.  
 14:32:26 11 MR. HAUGHEY: Okay. Thank you.  
 14:32:28 12 (Pause in proceedings.)  
 14:32:30 13 MR. HAUGHEY: We can go back on the  
 14:32:32 14 record.  
 14:32:34 15 BY MR. HAUGHEY:  
 14:32:36 16 Q. Thank you, Mr. Grillot. We had a  
 14:32:37 17 break there to deal with some logistical issues  
 14:32:38 18 and -- and timing issues. I have some -- my  
 14:32:40 19 last set of questions, general questions, have  
 14:32:41 20 to do with customers that used their own trucks  
 14:32:42 21 to haul to the site.  
 14:32:43 22 Give me the names, to the best of  
 14:32:44 23 your recollection, of all of the customers that  
 14:32:45 24 you remember that used their own trucks to come  
 14:32:46 25 to the site.

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14:52:44 1 A. With logos or signs or --  
 14:52:47 2 Q. Whatever, yeah. No, their own  
 14:52:49 3 trucks that you knew or you believed to be  
 14:52:51 4 their own personal trucks.  
 14:52:53 5 MR. MCCALL: Objection. Asked and  
 14:52:55 6 answered.  
 14:52:57 7 THE WITNESS: That's going to take a  
 14:52:59 8 while. There's a big list.  
 14:53:01 9 BY MR. HAUGHEY:  
 14:53:03 10 Q. Why don't we start with the  
 14:53:05 11 customers that had logos on their trucks, as  
 14:53:07 12 you referred to it, how about that list?  
 14:53:09 13 A. Okay. DP&L. E.A. (sic) Pickert.  
 14:53:11 14 Frigidaire. General Motors. Delphi. Ohio  
 14:53:13 15 Bell. Franklin Iron and Metal. Duriron.  
 14:53:15 16 There's others, but I'm not thinking right  
 14:53:17 17 now.  
 14:53:19 18 Q. Okay. When you say logo, are you  
 14:53:21 19 talking about a picture or are you talking  
 14:53:23 20 about a name or are you talking about both, a  
 14:53:25 21 picture and a name?  
 14:53:27 22 A. I quit 7th grade, so I -- I think  
 14:53:29 23 logo means with a picture, but -- it would be  
 14:53:31 24 just -- just the writing, so I'm -- I used the  
 14:53:33 25 wrong word for what I'm describing. Is that --

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14:54:03 1 do you understand that?  
 14:54:05 2 Q. No, I don't.  
 14:54:07 3 A. Okay.  
 14:54:09 4 Q. Please elaborate.  
 14:54:11 5 A. Just -- just the lettering with --  
 14:54:13 6 I assume a logo is an emblem, correct?  
 14:54:15 7 Q. Yes.  
 14:54:17 8 A. Okay. So just the lettering I  
 14:54:19 9 just mentioned would be what I remember.  
 14:54:21 10 Q. Okay. When you say lettering, are  
 14:54:23 11 you talking about a picture or are you talking  
 14:54:25 12 about just recognizing --  
 14:54:27 13 A. Letters, like -- like South Dayton  
 14:54:29 14 Dump. Just -- it would say South Dayton Dump,  
 14:54:31 15 you know.  
 14:54:33 16 Q. Okay. Well, that's a name, not a  
 14:54:35 17 logo.  
 14:54:37 18 A. Okay. Right, that's what I'm  
 14:54:39 19 saying. When I spit out the word logo, I was  
 14:54:41 20 thinking it could be included with a picture  
 14:54:43 21 just being lettering, so I made a mistake, so  
 14:54:45 22 I'm retracting my statement, okay?  
 14:54:47 23 So just with lettering on it is  
 14:54:49 24 what I just mentioned that I would remember.  
 14:54:51 25 Q. Okay. But I thought you testified

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14:54:59 1 in your deposition in 2012 that you were  
 14:55:01 2 talking about logos in terms of pictures. For  
 14:55:03 3 example, a DP&L picture of a light bulb.  
 14:55:05 4 A. Right, um-hum.  
 14:55:07 5 Q. Okay. So that's a picture, not a  
 14:55:09 6 name, correct?  
 14:55:11 7 A. Correct.  
 14:55:13 8 Q. Okay. Didn't you also testify  
 14:55:15 9 about Ohio Bell having a picture as well as a  
 14:55:17 10 logo type, not a name that you remember?  
 14:55:19 11 MR. SLAUGHTER: Objection. Asked and  
 14:55:21 12 answered.  
 14:55:23 13 THE WITNESS: I don't remember.  
 14:55:25 14 BY MR. HAUGHEY:  
 14:55:27 15 Q. Okay. All right. I'll run down  
 14:55:29 16 the names. DP&L, your recollection was a  
 14:55:31 17 picture, a logo, not a name?  
 14:55:33 18 A. Both.  
 14:55:35 19 Q. Okay. Pickert, picture, logo or  
 14:55:37 20 both? I mean -- I'm sorry -- picture or name  
 14:55:39 21 or both, Pickert?  
 14:55:41 22 A. Picture.  
 14:55:43 23 Q. Okay.  
 14:55:45 24 A. I mean lettering.  
 14:55:47 25 Q. Okay. Lettering. So name --

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14:55:58 1 lettering?

14:55:58 2 A. Yeah.

14:55:58 3 Q. Okay. GM?

14:56:03 4 A. Lettering. They had a -- had a

14:56:08 5 little thing underneath it that I think was

14:56:10 6 red, blue and white, I believe, but --

14:56:12 7 Q. Okay. When -- you're saying

14:56:14 8 lettering because you weren't -- you're not

14:56:15 9 confident of your spelling, is that correct?

14:56:17 10 A. No, no, I don't mean it that way.

14:56:20 11 I'm just saying the distinction between

14:56:23 12 lettering and logo I thought was the same,

14:56:23 13 so --

14:56:23 14 Q. Okay.

14:56:32 15 A. I'm sorry I'm confusing you.

14:56:33 16 Q. Yeah. I mean, I'm just -- I'm

14:56:34 17 trying to figure out whether you're remembering

14:56:35 18 these trucks because you remember seeing the

14:56:38 19 name -- the initials of the name on the truck,

14:56:43 20 or you remember seeing a picture, a logo that

14:56:47 21 you associated with that particular customer.

14:56:49 22 That's what I'm trying to get at.

14:56:50 23 A. Both.

14:56:51 24 Q. Okay. Now, for GM, that one was

14:56:53 25 both a name that you remember and a logo?

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14:56:57 1 A. If three colors is a logo, then,

14:57:01 2 yes.

14:57:04 3 Q. Okay. How about Delphi?

14:57:09 4 A. Just lettering.

14:57:14 5 Q. How about Franklin Iron and Metal?

14:57:18 6 A. Just lettering.

14:57:20 7 Q. Okay. By lettering, do you mean

14:57:21 8 their name?

14:57:23 9 A. Right.

14:57:23 10 Q. Okay. How about -- well, I think

14:57:31 11 I asked you. I think that's it. How about

14:57:31 12 Duriron?

14:57:35 13 A. Lettering.

14:57:35 14 Q. Not a logo?

14:57:36 15 A. No.

14:57:37 16 Q. Okay. How do you spell Duriron?

14:57:41 17 A. D -- I don't know. D U R I R O N.

14:57:50 18 I think, something like that.

14:57:53 19 Q. Okay. All right. But not a logo,

14:57:58 20 correct?

14:57:58 21 A. No.

14:57:58 22 Q. Okay. All right. Now, you grew

14:58:03 23 up in the Dayton area, correct?

14:58:05 24 MR. ROMINE: Asked and answered.

14:58:06 25 BY MR. HAUGHEY:

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14:58:04 1 Q. Okay.

14:58:06 2 A. (Witness nodding head up and

14:58:07 3 down.)

14:58:07 4 Q. Do you remember stating in your

14:58:09 5 deposition in 2012, that because you grew up in

14:58:13 6 the Dayton area, you might be confusing seeing

14:58:16 7 trucks around Dayton area as opposed to at the

14:58:20 8 site?

14:58:21 9 MR. ROMINE: Objection.

14:58:21 10 BY MR. HAUGHEY:

14:58:22 11 Q. Do you remember making that

14:58:23 12 statement?

14:58:23 13 MR. ROMINE: Objection.

14:58:24 14 Mischaracterizes his testimony. Asked and

14:58:24 15 answered.

14:58:25 16 THE WITNESS: Could you rephrase?

14:58:26 17 MR. HAUGHEY: I asked him whether he

14:58:28 18 remembers making the statement. There -- there's

14:58:29 19 no way you can mischaracterize that, David. Let

14:58:32 20 me restate it.

14:58:34 21 BY MR. HAUGHEY:

14:58:34 22 Q. In your deposition in 2012, do you

14:58:37 23 remember making the statement that because you

14:58:40 24 grew up in Dayton, you might be confusing

14:58:43 25 seeing trucks and logos around the Dayton area

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14:58:44 1 versus actually seeing the trucks at the site?

14:58:48 2 MR. ROMINE: Objection.

14:58:48 3 Mischaracterizes his testimony.

14:58:52 4 THE WITNESS: I remember making the

14:58:53 5 statement.

14:58:53 6 MR. HAUGHEY: Okay. All right.

14:58:53 7 That's all of the questions I have. I am

14:58:58 8 reserving the rest of my time for tomorrow, I

14:59:03 9 presume, to address our four clients, and,

14:59:09 10 therefore, I will stop now and we'll turn it over

14:59:12 11 to those folks who have timing needs that may make

14:59:15 12 them need to get their work done yet today.

14:59:16 13 MR. HARBECK: Can we go off the

14:59:17 14 record just for a second?

14:59:17 15 MR. HAUGHEY: Yeah. We'll go off the

14:59:17 16 record.

14:59:19 17 (Pause in proceedings.)

14:59:19 18 MR. ROMINE: Steve, do you want to

15:01:05 19 ask a few more questions or --

15:01:05 20 MR. HAUGHEY: No. Again, I'm -- on

15:01:07 21 the record, I'm going to preserve the rest of my

15:01:10 22 time and turn it over to, I think, counsel for

15:01:15 23 Ohio Bell. And then, Jack, you'll go after Jimmy

15:01:22 24 Slaughter. You still there, Jack?

15:01:26 25 MR. VAN KLEY: Oh, yes. Thank you.

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18/01/27 1 MR. HAUGHEY: Okay. Thank you.

18/01/27 2 CROSS-EXAMINATION

18/02/03 3 BY MR. SLAUGHTER:

18/02/03 4 Q. Hi, Mr. Grillot. My name is James

18/02/05 5 Slaughter. I'm counsel for Ohio Bell with the

18/02/07 6 law firm of Beveridge and Diamond, and thank

18/02/10 7 you very much for your time and patience today

18/02/12 8 giving this deposition testimony.

18/02/18 9 A. You're welcome.

18/02/18 10 Q. I just have a few questions to go

18/02/17 11 over some of your testimony in your 2012

18/02/18 12 deposition in this case and the testimony that

18/02/22 13 you gave earlier today.

18/02/23 14 You testified regarding Ohio

18/02/26 15 Bell's use of the South Dayton Dump, and in

18/02/30 16 2012, you testified that they were not there

18/02/33 17 frequently, and today you testified that they

18/02/34 18 didn't use it a lot.

18/02/38 19 A. Right.

18/02/38 20 Q. How would you quantify that, once

18/02/41 21 a season?

18/02/45 22 A. Once a month.

18/02/47 23 Q. Okay. Now, you also testified

18/02/51 24 that you saw Ohio Bell in the 1960s at the

18/02/55 25 site, and in 2012, you testified that they

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18/02/58 1 weren't there at the beginning when you first

18/02/00 2 started working there as a youngster?

18/02/03 3 A. Right.

18/02/03 4 Q. So the 1960s is the period when

18/02/07 5 you remembered seeing Ohio Bell at the site?

18/02/10 6 A. Like the utility companies, I -- I

18/02/13 7 think I remember names changing. I don't

18/02/16 8 remember if it said Maw Bell or something Bell,

18/02/20 9 but I think it had another name or -- with it

18/02/23 10 or something else. Southern -- Southern Bell

18/02/27 11 or something, but -- but I do remember when it

18/02/31 12 was just Ohio Bell.

18/02/32 13 Q. And that would be in the 1960s

18/02/35 14 that you recall seeing Ohio Bell at the site?

18/02/37 15 A. Correct.

18/02/37 16 Q. And regarding other names for

18/02/41 17 telephone companies in the area, you don't

18/02/42 18 recall when or whether they were at the site?

18/02/47 19 A. Well, I just thought Ohio Bell was

18/02/52 20 the only service provider at that time, but the

18/02/54 21 names, you know, whether -- I would be

18/03/00 22 assuming, so I don't know.

18/03/02 23 Q. You testified in 2012 that you

18/03/05 24 recall vans from Ohio Bell delivering waste to

18/03/08 25 the site.

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18/04/10 1 A. Correct.

18/04/11 2 Q. So were these the standard size

18/04/13 3 telephone company vans that would have a ladder

18/04/14 4 attached to the top?

18/04/19 5 A. Right, and a yellow thing on top

18/04/24 6 of it, the light. They were similar -- DP&L

18/04/27 7 had similar. I think there were a -- Chevy

18/04/33 8 Econolines or Ford that the only difference was

18/04/35 9 Ohio Bell was white and -- and DP&L had like a

18/04/38 10 tannish color.

18/04/40 11 Q. So the waste that they would bring

18/04/42 12 to the South Dayton Dump would be no more waste

18/04/45 13 than could fit in one of those vans, correct?

18/04/48 14 A. Correct.

18/04/49 15 Q. And the spools that you mentioned

18/04/51 16 that the wire and cable would be wound on,

18/04/55 17 those would be spools that could fit inside one

18/04/58 18 of those vans?

18/05/00 19 A. Yes.

18/05/01 20 Q. So the spools would not be very

18/05/04 21 large then, would they? How many could fit in

18/05/07 22 a van?

18/05/07 23 A. Right. I remember some trailers

18/05/11 24 coming in that would have real big ones, but I

18/05/16 25 don't remember -- I think mostly it was for

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18/05/17 1 DP&L, I don't remember Ohio Bell, so --

18/05/20 2 Q. Is there anything else that you

18/05/24 3 recall about Ohio Bell and the waste that they

18/05/26 4 brought to the site?

18/05/28 5 A. No, other than what I spoke of

18/05/42 6 here this morning.

18/05/43 7 MR. SLAUGHTER: Okay. Thank you very

18/05/45 8 much for your time.

18/05/46 9 THE WITNESS: You're welcome.

18/06/01 10 MR. HAUGHEY: Jack?

18/06/02 11 MR. VAN KLEY: Yes. Thank you.

18/06/02 12 MR. HAUGHEY: Yeah. You ready?

18/06/02 13 CROSS-EXAMINATION

18/06/03 14 BY MR. VAN KLEY:

18/06/03 15 Q. Mr. Grillot, can you -- Mr.

18/06/06 16 Grillot, can you hear me okay?

18/06/07 17 A. Yes, I can.

18/06/08 18 Q. Okay. Great. I'm going to ask

18/06/13 19 you questions about two companies that you

18/06/16 20 identified as customers of the landfill this

18/06/21 21 morning. They are the Hewitt Soap Works and

18/06/25 22 Van Dyne-Crotty.

18/06/26 23 A. Okay.

18/06/27 24 Q. And I'll take them in alphabetical

18/06/28 25 order, just like Mr. Romine did. So we'll

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18:06:32 1 start with Hewitt Soap Works.

18:06:38 2 What makes you believe that the

18:06:39 3 waste materials brought to the landfill that

18:06:41 4 you attributed to Hewitt Soap Works actually

18:06:45 5 came from that company?

18:06:47 6 A. Because I had talked to the

18:06:51 7 drivers, and, you know, we had kidded around

18:06:55 8 about all the soap and stuff, the shampoo

18:06:59 9 and -- and bars of soap, and -- and I asked

18:07:00 10 them where they got them from, and he told me

18:07:04 11 and he mentioned Hewitt Soap Company.

18:07:13 12 Q. Were there any other events or

18:07:17 13 things that made you believe that these

18:07:18 14 materials came from the Hewitt Soap Company?

18:07:24 15 A. No, other -- other than, you know,

18:07:30 16 they gave more of a pleasant smell than some of

18:07:34 17 the dump trucks that came in there, so I

18:07:36 18 just -- you know, I -- and over that particular

18:07:37 19 area, I -- I realized they were on Fifth Street

18:07:41 20 and I think Ludlow or something -- not Ludlow,

18:07:44 21 but Linden, I think, because I recognized the

18:07:48 22 smell sometimes. So only those two

18:07:52 23 instances -- those two reasons I was -- I made

18:07:54 24 that statement.

18:08:02 25 Q. How many drivers told you that the

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18:08:09 1 materials came from Hewitt Soap?

18:08:09 2 A. At that particular time, just one

18:08:11 3 driver.

18:08:13 4 Q. Do you recall the name of that

18:08:15 5 driver?

18:08:15 6 A. No. No.

18:08:17 7 Q. When did you have this

18:08:22 8 conversation?

18:08:23 9 A. When?

18:08:28 10 Q. Yes.

18:08:26 11 A. I couldn't give you an exact year,

18:08:30 12 but I would -- I would agree with myself

18:08:34 13 probably in the '60s.

18:08:36 14 Q. So you think it may have occurred

18:08:42 15 in the '60s?

18:08:43 16 A. Correct.

18:08:44 17 Q. And approximately how old were you

18:08:49 18 at that time?

18:08:50 19 A. How old?

18:08:51 20 Q. Yes.

18:08:54 21 A. Fifty-two; from ten possibly to --

18:08:59 22 what would it be, 19?

18:09:05 23 Q. Can you give me more specifics

18:09:12 24 about what that one driver said to you with

18:09:14 25 regard to identifying the source of the

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18:09:14 1 materials?

18:09:18 2 A. Well, I basically was thanking him

18:09:21 3 because it supplied us with supplies for some

18:09:23 4 time, and we were just kidding around, and, you

18:09:29 5 know, just, you know, what did they do, I heard

18:09:34 6 you use animal fat and this, that and the other

18:09:39 7 and -- so it was just a conversation you had

18:09:42 8 with a -- with a driver, you know.

18:09:45 9 I was a smoker at the time, and

18:09:47 10 that -- you know, we'd -- any of the drivers

18:09:49 11 that smoked, if they couldn't smoke in the

18:09:52 12 truck, then we'd -- that was a good time to --

18:09:53 13 for me to take a break and talk to him, so --

18:09:58 14 Q. Did the driver identify himself as

18:10:02 15 an employee of Hewitt Soap?

18:10:04 16 A. No.

18:10:14 17 Q. Was it -- you said that there was

18:10:17 18 a plant located near Fifth and Linden, is that

18:10:22 19 right?

18:10:22 20 A. Right, and I -- I was told, and I

18:10:24 21 think I did see a sign where -- or I ran into a

18:10:31 22 lot of people down there that said they worked

18:10:33 23 for the Hewitt Soap Company. Mostly women.

18:10:39 24 Q. You ran into these people at the

18:10:42 25 plant near Fifth and Linden?

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18:10:42 1 A. Yes, uh-huh. It was directly

18:10:49 2 across --

18:10:50 3 Q. Is that in Dayton?

18:10:51 4 A. I'm sorry?

18:10:52 5 Q. Go ahead.

18:10:53 6 A. It was right across the street

18:10:54 7 from a industrial complex called the Davis

18:11:02 8 Building, so I had -- the latter part of the

18:11:05 9 time had picked up materials for myself down

18:11:08 10 there, like kitchen cabinets and stuff to redo

18:11:11 11 my house, and -- and I think at one time, they

18:11:14 12 were either on strike or they had closed down,

18:11:15 13 and I asked them what happened, and that was --

18:11:19 14 I don't remember what year that was, but --

18:11:24 15 Q. So you were aware of a Hewitt Soap

18:11:27 16 plant located near Fifth and Linden in Dayton?

18:11:31 17 A. Correct.

18:11:33 18 Q. And what does that fact have to do

18:11:38 19 with your identifying Hewitt Soap as a customer

18:11:43 20 of the South Dayton Dump?

18:11:46 21 A. Other than it gave me more

18:11:49 22 confidence that I didn't get poisoned or

18:11:51 23 anything, it's something local like that, I

18:11:54 24 felt safer maybe. I don't know.

18:11:56 25 Q. So the fact that you knew that

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18:11:59 1 Hewitt Soap had a plant at that location did  
 18:12:02 2 not provide you with any information that the  
 18:12:08 3 materials at the dump actually came from that  
 18:12:11 4 plant?

18:12:12 5 A. Well, it wasn't till probably in  
 18:12:18 6 the '70s that I'm making this statement right  
 18:12:18 7 now, but the original driver that brought stuff  
 18:12:22 8 to the dump, that was, you know, in the '60s,  
 18:12:24 9 so we're talking maybe a ten year span.

18:12:31 10 Q. I'm not sure that I understood  
 18:12:34 11 what you just said. What was it about the  
 18:12:42 12 1970s that you were talking about?

18:12:43 13 A. That I had spoke to individuals  
 18:12:44 14 about where actually Hewitt Soap Company was,  
 18:12:51 15 and then the first statement that I said in the  
 18:12:54 16 '60s, that was the experience with the driver.

18:12:55 17 Q. And so what happened in the '70s  
 18:13:02 18 with regard to Hewitt Soap?

18:13:05 19 A. That's when I would pick -- I  
 18:13:06 20 picked up some cabinets from the Davis complex  
 18:13:14 21 and I had talked to some -- a lot of women in  
 18:13:19 22 that particular time that worked there.

18:13:22 23 So that -- there was a ten year  
 18:13:34 24 span between the driver and me questioning  
 18:13:39 25 exactly where Hewitt Soap Company was.

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18:13:39 1 Q. Okay. So in the 1970s, you  
 18:13:39 2 discovered where the company had its plant, is  
 18:13:57 3 that right?

18:13:43 4 A. Correct.

18:13:49 5 Q. Okay. And the fact that you  
 18:13:46 6 discovered where the plant was, did not lead  
 18:13:50 7 you to believe that the materials coming to the  
 18:13:54 8 dump were actually from that plant, is that  
 18:13:57 9 right?

18:13:57 10 A. Correct. I just knew a name in  
 18:14:06 11 the '60s, I didn't know a location.

18:14:10 12 Q. Did the driver's truck -- that is,  
 18:14:13 13 the driver that you had this discussion with  
 18:14:16 14 about Hewitt Soap at the South Dayton Dump, did  
 18:14:19 15 that truck have any emblems or symbols or words  
 18:14:26 16 on it that identified Hewitt Soap?

18:14:28 17 A. No.

18:14:28 18 Q. Do you recall any symbols, words  
 18:14:34 19 or other things on that truck?

18:14:38 20 A. No.

18:14:42 21 Q. Okay. How many truckloads of  
 18:14:47 22 materials from Hewitt Soap went to the South  
 18:14:57 23 Dayton Dump?

18:14:58 24 A. Well, just that one time for my  
 18:15:06 25 personal experience, but the same stuff that

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18:15:12 1 sometimes it would come in the gallon things  
 18:15:15 2 that had the push thing on it we had been using  
 18:15:20 3 ever since I was a kid going down there in  
 18:15:23 4 the -- in the -- in the early '60s.

18:15:28 5 So, you know, I -- I just put two  
 18:15:30 6 and two together that it was the same -- same  
 18:15:32 7 particular company.

18:15:32 8 Q. So --

18:15:35 9 A. I'm sorry.

18:15:39 10 Q. -- is it true then that you only  
 18:15:41 11 personally saw one truck with Hewitt Soap waste  
 18:15:46 12 at the landfill?

18:15:49 13 A. Correct.

18:15:52 14 Q. And your belief that that  
 18:15:56 15 materials on that one truck came from Hewitt  
 18:16:00 16 Soap was based solely on your discussion with  
 18:16:03 17 that driver?

18:16:04 18 A. Correct.

18:16:06 19 Q. And you made the conclusion that  
 18:16:10 20 other Hewitt Soap waste was at the landfill  
 18:16:14 21 based on the appearance of waste that you saw  
 18:16:19 22 at the landfill?

18:16:20 23 A. Could you please state that again?

18:16:22 24 Q. Yes. I believe during your  
 18:16:29 25 answers to some of the questions earlier in

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18:16:31 1 this deposition, you said that Hewitt Soap  
 18:16:38 2 brought waste to or -- for Hewitt Soap waste  
 18:16:42 3 was brought to the dump on more than one  
 18:16:46 4 occasion, right?

18:16:50 5 A. Well, I was putting it in  
 18:16:53 6 reference to the earlier years, too, because I  
 18:16:56 7 remember the dispensers and the color and --  
 18:16:57 8 and -- and some of the smell came from the same  
 18:17:01 9 place.

18:17:04 10 Q. But that was not based on your  
 18:17:07 11 seeing any trucks identified to Hewitt Soap  
 18:17:15 12 bring that waste in, is that right?

18:17:17 13 A. Correct. If I remember --

18:17:19 14 Q. You were just basing --

18:17:20 15 A. If I --

18:17:20 16 Q. Go ahead.

18:17:21 17 A. If I remember right, I think a lot  
 18:17:22 18 of it was made for other companies, and I think  
 18:17:26 19 I remember Avon with some of the lettering  
 18:17:32 20 on -- on the soap bars and stuff like that, if  
 18:17:33 21 I'm not mistaken. So I did --

18:17:39 22 Q. So you saw the names of other  
 18:17:41 23 companies on soap products at the landfill?

18:17:45 24 A. Correct.

18:17:48 25 Q. Did you see Hewitt Soap's name

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15:17:51 1 on any products for waste brought to the  
 15:17:51 2 landfill?  
 15:17:56 3 A. I didn't -- no, I didn't inspect  
 15:17:58 4 it well enough to -- it was just by the  
 15:18:01 5 driver's comment that I solely would say it  
 15:18:06 6 would be Hewitt factory.  
 15:18:11 7 Q. Are you making the assumption that  
 15:18:14 8 any soap products that you saw at the dump came  
 15:18:19 9 from Hewitt Soap?  
 15:18:21 10 A. Yes.  
 15:18:23 11 Q. During what time period did you  
 15:18:32 12 see soap products at the dump that you  
 15:18:38 13 attributed to Hewitt Soap?  
 15:18:40 14 A. Just that particular time after  
 15:18:43 15 the driver, but before that it -- we used the  
 15:18:47 16 soap, took it home, da, da, da, da.  
 15:18:49 17 Then I put two and two together  
 15:18:56 18 that it possibly came from the same  
 15:19:03 19 manufacturer.  
 15:19:02 20 Q. Okay. Did you actually see any  
 15:19:05 21 soap products at the dump that you know  
 15:19:12 22 remained at the dump rather than being taken to  
 15:19:14 23 people's houses or other -- other locations?  
 15:19:18 24 A. I don't understand the question.  
 15:19:19 25 Q. I'll -- I'll break it down for

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15:19:21 1 you.  
 15:19:22 2 A. Okay.  
 15:19:23 3 Q. You testified earlier today that  
 15:19:30 4 employees of the landfill -- employees of the  
 15:19:32 5 dump took soap home to use it because it was  
 15:19:34 6 useful, right?  
 15:19:37 7 A. Correct.  
 15:19:39 8 Q. Did any soap products stay at the  
 15:19:45 9 landfill that you actually observed to stay at  
 15:19:51 10 the landfill?  
 15:19:54 11 A. That's still not -- it's not  
 15:19:56 12 making sense.  
 15:19:57 13 Q. Well, let me reword it. That  
 15:19:59 14 wasn't a very well-worded question.  
 15:20:01 15 Did you actually see any soap  
 15:20:03 16 products buried or burned or otherwise disposed  
 15:20:07 17 of at the dump?  
 15:20:08 18 A. Yes.  
 15:20:09 19 Q. Okay. How -- how much material  
 15:20:13 20 did you actually see disposed of at the dump?  
 15:20:16 21 A. I'm still a little confused. Are  
 15:20:19 22 you talking about other companies or are you  
 15:20:21 23 just talking about my understanding that may  
 15:20:25 24 have come from Hewitt?  
 15:20:26 25 Q. Well, let me back up a moment

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15:20:31 1 then. I think you earlier told me that you  
 15:20:34 2 assumed that any soap at the dump came from  
 15:20:40 3 Hewitt Soap, is that correct?  
 15:20:43 4 A. Correct.  
 15:20:43 5 Q. So my question is related to any  
 15:20:48 6 of the soap that you saw at the landfill, and  
 15:20:52 7 my question is, did you actually see any soap  
 15:20:58 8 that was buried or otherwise destroyed at the  
 15:21:05 9 landfill instead of being taken away to  
 15:21:09 10 people's houses for use?  
 15:21:09 11 A. Okay. I'm -- now I understand.  
 15:21:11 12 Yes, some products was -- was -- the jugs got  
 15:21:16 13 broke or whatever and the soap was all over the  
 15:21:18 14 other stuff, so we didn't mess with it, we had  
 15:21:20 15 to clean it up.  
 15:21:21 16 So we just took stuff that was  
 15:21:24 17 easily picked out of it and then we dumped it  
 15:21:27 18 down on the third pier -- or third tier.  
 15:21:33 19 Q. Okay. And tell me what the third  
 15:21:38 20 tier was again?  
 15:21:39 21 A. It was most -- it was mainly for  
 15:21:44 22 burial purposes.  
 15:21:46 23 Q. When did you first see soap  
 15:22:02 24 products at the dump?  
 15:22:08 25 A. The early '60s.

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15:22:14 1 Q. The early '60s?  
 15:22:14 2 A. Correct.  
 15:22:18 3 Q. And when is the last time that you  
 15:22:20 4 saw soap products at the dump?  
 15:22:26 5 A. Probably mid '70s, '74, maybe '75,  
 15:22:28 6 I think.  
 15:22:36 7 Q. That was before you started  
 15:22:46 8 working for Liberal Market?  
 15:22:48 9 A. Correct.  
 15:22:49 10 Q. So you didn't see any soap at the  
 15:22:54 11 dump after you started working for Liberal  
 15:22:57 12 Market?  
 15:22:57 13 A. Correct. Well, I have to restate  
 15:23:04 14 that. If I went to help Uncle Kenny to wash my  
 15:23:07 15 hands, whether he still had, you know,  
 15:23:11 16 truckloads stashed away somewhere, the soap was  
 15:23:13 17 still, you know, on the sink.  
 15:23:18 18 Q. Okay. But after you started  
 15:23:21 19 working for Liberal Soap (sic), you did not see  
 15:23:24 20 any soap that was brought to the dump after  
 15:23:28 21 that time?  
 15:23:29 22 A. Correct.  
 15:23:30 23 Q. I wrote down the types of  
 15:23:43 24 materials that you said came from Hewitt Soap  
 15:23:50 25 and were brought to the dump, and I want you to

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15:23:54 1 confirm that I wrote down everything you  
 15:23:59 2 believe was taken to the dump from Hewitt Soap.  
 15:24:03 3 The first is soap in bars. The  
 15:24:07 4 second was soap in containers, and the third  
 15:24:12 5 was towel dispensers.  
 15:24:16 6 A. Correct.  
 15:24:18 7 Q. Did you name all three of those  
 15:24:20 8 types of soap from Hewitt Soap?  
 15:24:20 9 A. Correct.  
 15:24:20 10 Q. Okay.  
 15:24:23 11 A. The dispenser --  
 15:24:24 12 Q. Are there any type of -- go  
 15:24:24 13 ahead.  
 15:24:24 14 A. The dispenser or the towel thing,  
 15:24:29 15 was just one of the items that was on the truck  
 15:24:34 16 that -- when I had a discussion with the  
 15:24:35 17 driver.  
 15:24:35 18 I mean, there wasn't a whole  
 15:24:37 19 truckload, you know, in his -- his thing, it  
 15:24:42 20 was only one. So I don't know if they made  
 15:24:44 21 them there or if they -- if they were just  
 15:24:47 22 throwing one away from one of the restrooms or  
 15:24:49 23 something, so I don't -- I don't know.  
 15:24:52 24 Q. So you're only aware of towel --  
 15:24:55 25 towel dispensers that you believe to be from

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15:25:00 1 Hewitt Soap arriving in one load?  
 15:25:03 2 A. Please state that again.  
 15:25:05 3 Q. Yeah. You're -- other than that  
 15:25:07 4 one load where you saw the towel dispensers at  
 15:25:13 5 that time that you talked to the driver we've  
 15:25:14 6 been discussing --  
 15:25:15 7 A. Correct.  
 15:25:16 8 Q. -- you're not aware of any other  
 15:25:18 9 towel dispensers that were brought to the dump  
 15:25:20 10 that you attributed to Hewitt Soap?  
 15:25:23 11 A. Correct, but I did -- never mind.  
 15:25:27 12 Never mind. Go on.  
 15:25:29 13 Q. What made you believe that the  
 15:25:30 14 towel dispensers came from Hewitt Soap?  
 15:25:34 15 A. Only by the -- he had a truckload  
 15:25:38 16 of stuff and he said he brought it from Hewitt  
 15:25:45 17 Soap Company.  
 15:25:45 18 Q. The towel dispensers didn't -- did  
 15:25:47 19 not have Hewitt Soap's name on them?  
 15:25:49 20 A. No.  
 15:25:50 21 Q. So other than the three types of  
 15:25:57 22 material that I just named, you're not aware of  
 15:26:00 23 any other type of materials that you believed  
 15:26:05 24 was taken to the dump from Hewitt Soap?  
 15:26:09 25 A. Correct.

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15:26:09 1 Q. Were the bars of soap wrapped in  
 15:26:19 2 paper?  
 15:26:23 3 A. Some of them, but some of them --  
 15:26:26 4 that's where I -- I recollect they had -- was  
 15:26:28 5 in like a fancy box and would say Avon.  
 15:26:37 6 That would be the only way that --  
 15:26:39 7 one box they were -- they were like Lava soap  
 15:26:47 8 bars. They were real coarse and had like sand  
 15:26:49 9 in them, and they were individually in like  
 15:26:53 10 individual compartments in like a -- a shipping  
 15:26:57 11 box.  
 15:27:12 12 Q. What did the containers of soap  
 15:27:14 13 look like?  
 15:27:14 14 A. They were kind of like -- the ones  
 15:27:18 15 were gallon cans that had -- and sealed up with  
 15:27:23 16 a cap. Some of them that were either empty or  
 15:27:26 17 whatever had a pushdown applicator, and then a  
 15:27:32 18 lot of them was in boxes that were -- what we  
 15:27:38 19 see today in maybe a ten -- eight -- eight, ten  
 15:27:42 20 ounce squeeze bottle, and they were -- they  
 15:27:48 21 were -- that was more shampoo than it was -- I  
 15:27:53 22 would call hand soap, but it could have been  
 15:27:54 23 something else, but --  
 15:27:57 24 Q. Did the towel dispensers actually  
 15:28:07 25 have towels in them?

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15:28:08 1 A. It had a torn sheet in it, yes.  
 15:28:14 2 Q. What was the purpose, if you know,  
 15:28:16 3 of the torn sheets in the towel dispensers?  
 15:28:19 4 A. No clue.  
 15:28:21 5 Q. I'm sorry? I didn't hear an  
 15:28:32 6 answer to that question.  
 15:28:34 7 A. I don't have a clue.  
 15:28:36 8 Q. Okay. Were these towels cloth or  
 15:28:42 9 paper?  
 15:28:44 10 A. Cloth.  
 15:28:46 11 Q. And -- and what happened to the  
 15:28:51 12 cloth in the dispensers after it came to the  
 15:28:55 13 dump?  
 15:28:56 14 A. Pardon me?  
 15:28:56 15 Q. What was done with the cloth in  
 15:29:00 16 the towel dispensers after it arrived at the  
 15:29:03 17 dump?  
 15:29:05 18 A. Well, I'm not exactly sure, but  
 15:29:08 19 normal procedure was to take whatever was not  
 15:29:13 20 mag -- magnified -- you know, if the magnet  
 15:29:19 21 wouldn't stick to, that we would toss it into  
 15:29:21 22 the pile for -- to be shipped off to Franklin  
 15:29:27 23 Iron and Metal.  
 15:29:31 24 Q. So you believe that the towel  
 15:29:33 25 dispensers were taken offsite to Franklin Iron

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15:29:38 1 and Metal?

15:29:38 2 A. Correct, as well as the ones from

15:29:52 3 Van Dyne-Crotty.

15:29:52 4 Q. What happened to the towels that

15:29:54 5 were in the dispensers?

15:29:58 6 A. Like I said, the procedure would

15:30:01 7 have been to cut them off because they weren't

15:30:04 8 salvageable at the Franklin Iron and Metal.

15:30:13 9 Q. But you never personally saw that

15:30:18 10 that occurred?

15:30:16 11 A. I possibly could have done it

15:30:20 12 myself, but I just don't remember that part of

15:30:22 13 it, so --

15:30:22 14 Q. Do you recall how many towel

15:30:37 15 dispensers were on that load?

15:30:39 16 A. I had mentioned just one.

15:30:42 17 Q. Just one towel dispenser?

15:30:45 18 A. Correct.

15:30:46 19 Q. Do you recall in the first

15:31:22 20 deposition you gave in this case that you were

15:31:25 21 asked whether you provided a list of dump

15:31:34 22 customers to the plaintiffs' attorneys or

15:31:38 23 investigator, and you came up with a list

15:31:41 24 of the companies that you remembered on your

15:31:44 25 own?

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15:31:44 1 A. Correct.

15:31:45 2 Q. But Hewitt Soap was not one of the

15:31:50 3 companies that you remembered on your own, is

15:31:50 4 that right?

15:31:53 5 A. Yeah. At that particular time,

15:31:55 6 you know, I didn't focus, because I didn't know

15:31:59 7 exactly what to expect, so I was told, and I

15:32:07 8 thought to myself, well, just think about it,

15:32:09 9 you know.

15:32:10 10 So after the few years, Mr. --

15:32:18 11 Bill, I can't remember his last -- Wilts,

15:32:18 12 Waltz.

15:32:23 13 I'd tell him -- I'd call him and

15:32:27 14 say, Bill, I remembered a company, and that

15:32:28 15 went over probably a course of a few months,

15:32:31 16 and that was brought up.

15:32:37 17 Q. Okay. How long did it take you to

15:32:38 18 remember what you remember about Hewitt Soap?

15:32:44 19 A. I don't remember exactly what

15:32:44 20 month or -- but I'd lay in bed and try to go

15:32:50 21 back to the -- the years and -- and try to

15:32:53 22 remember what I saw.

15:32:59 23 Q. And it's also true that you did

15:33:02 24 not remember Van Dyne-Crotty when you gave your

15:33:06 25 initial list to the investigator?

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15:33:09 1 A. I don't remember, but I think I

15:33:18 2 did not.

15:33:18 3 Q. Let's talk about --

15:33:14 4 A. I -- I believe I did not.

15:33:18 5 Q. Okay. Go ahead. I'm sorry.

15:33:19 6 A. I said I believe I did not

15:33:22 7 remember Van Dyne-Crotty either at that time.

15:33:24 8 It was the main companies that popped in my

15:33:28 9 head first.

15:33:30 10 Q. Were either Van Dyne-Crotty or

15:33:43 11 Hewitt Soap among the names of the companies

15:33:45 12 that were read to you by the plaintiffs'

15:33:53 13 attorneys or their investigator?

15:33:55 14 MR. ROMINE: Objection.

15:33:57 15 Mischaracterizes his testimony.

15:33:57 16 THE WITNESS: No.

15:33:57 17 BY MR. VAN KLEY:

15:34:04 18 Q. Okay. Let's talk about Van

15:34:07 19 Dyne-Crotty's materials that you believe came

15:34:10 20 to the dump.

15:34:14 21 A. So are we on another subject or

15:34:14 22 are we still with the -- Hewitt?

15:34:20 23 Q. We're now -- we're going to talk

15:34:22 24 about Van Dyne-Crotty.

15:34:23 25 A. Okay.

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15:34:25 1 Q. What made you believe that any

15:34:26 2 materials from Van Dyne-Crotty were taken to

15:34:30 3 the dump?

15:34:36 4 A. Uniforms, I think, had some

15:34:40 5 lettering on it. Some of the boxes.

15:34:49 6 You know, if I'm not mistaken,

15:34:51 7 I think they had a -- lettering on the side

15:34:54 8 of the truck, but I'm not a hundred percent

15:34:59 9 sure.

15:34:59 10 Q. Have you ever seen a Van

15:35:05 11 Dyne-Crotty truck at places other than the

15:35:07 12 dump?

15:35:08 13 A. That's where I made a statement a

15:35:11 14 few minutes ago. I believe his name was James,

15:35:14 15 with D -- or Ohio Bell that I tried to be

15:35:20 16 careful not to think what I saw driving around

15:35:21 17 for my life and -- and what I saw at the dump,

15:35:24 18 and so I would have to truthfully say that I'm

15:35:28 19 not sure.

15:35:42 20 Q. What kind of lettering do you

15:35:45 21 believe that you have seen on Van Dyne-Crotty's

15:35:49 22 trucks, either at the dump or outside of the

15:35:52 23 dump?

15:35:54 24 A. Other than I thought they were

15:35:55 25 pretty -- pretty cool. I mean, it wasn't just

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15:36:01 1 like regular lettering, you know, it wasn't --  
15:36:02 2 and it wasn't calligraphy. I think it was  
15:36:03 3 colorful and -- and so forth.

15:36:07 4 Q. Okay. What -- what letters were  
15:36:11 5 on the trucks?

15:36:13 6 A. Just Van Dyne-Crotty, I believe.

15:36:18 7 Q. And so you recalled that the name  
15:36:21 8 of the company was fully spelled out on the  
15:36:25 9 trucks?

15:36:27 10 A. Run that by me one more time.

15:36:28 11 Q. Is it your recollection that the  
15:36:32 12 full name of the company, Van Dyne-Crotty, was  
15:36:35 13 spelled out on the trucks?

15:36:36 14 A. Yes.

15:36:37 15 Q. Is there anything else that  
15:36:52 16 you're -- that you recall that lead you to  
15:36:54 17 believe that any Van Dyne-Crotty materials were  
15:36:57 18 brought to the dump?

15:36:58 19 A. No.

15:37:03 20 Q. How often do you believe that Van  
15:37:18 21 Dyne-Crotty materials were brought to the dump?

15:37:20 22 A. How often?

15:37:22 23 Q. Yes.

15:37:23 24 A. Once a month possibly.

15:37:31 25 It wasn't very, you know, regular

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15:37:35 1 or anything like that.

15:37:43 2 Q. And -- and what do you base that  
15:37:45 3 on? What do you base that frequency on?

15:37:49 4 A. Well, mostly because when a truck  
15:37:54 5 like that came in, it was questionable where to  
15:37:59 6 take it, because the cloth would have to go  
15:38:00 7 down on the bury pile -- buried pile, and then,  
15:38:04 8 you know, paper products would have to --  
15:38:08 9 cardboard would have to go on top.

15:38:10 10 So I would have to ride with the  
15:38:12 11 driver to make sure it got to its proper place.  
15:38:15 12 And then if they brought like a -- a box of  
15:38:21 13 working gloves -- you know, I remembered that  
15:38:24 14 because it protected me from banging my hand  
15:38:27 15 when I had to beat barrels and get the lids  
15:38:29 16 off, so, you know, you kind of remember those  
15:38:32 17 things.

15:38:33 18 And then paper, we'd use in the  
15:38:34 19 bathroom to wipe our hands off of, and so you  
15:38:38 20 kind of looked out if we were running low, we  
15:38:41 21 was hoping a truck would come in and there'd be  
15:38:43 22 some on it, so --

15:38:54 23 Q. So you would call that trucks  
15:39:00 24 transporting that kind of material to the  
15:39:02 25 landfill, visited the landfill about once a

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15:39:09 1 month?

15:39:09 2 A. Yes, correct.

15:39:10 3 Q. But you don't recall for sure that  
15:39:14 4 those trucks were Van Dyne-Crotty trucks, as  
15:39:18 5 you've already stated?

15:39:19 6 A. Well, when -- sometimes when  
15:39:22 7 you're down at the bottom of the pit, you can't  
15:39:24 8 see up at the office, and if they came in and  
15:39:27 9 they had just what would fit -- would be  
15:39:29 10 useable, say, in the office, Uncle Kenny would  
15:39:33 11 take it out and put it on the ground. He  
15:39:35 12 didn't want to carry it in.

15:39:36 13 So when I got back up there, I  
15:39:40 14 carried it, and I'd say, oh, the truck came  
15:39:41 15 back with the towels and stuff, I'd say, they  
15:39:44 16 got any more gloves? You know, and he would  
15:39:46 17 say no, or, yeah, they did or whatever, so --  
15:39:49 18 but on a regular basis what I -- what I saw was  
15:39:52 19 not very frequent.

15:39:57 20 Q. Okay. So on how many occasions  
15:39:59 21 did you actually see trucks bring this material  
15:40:03 22 in that you believed may have come from Van  
15:40:05 23 Dyne-Crotty?

15:40:09 24 A. Three times.

15:40:23 25 Q. So when you say that these -- that

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15:40:27 1 Van Dyne-Crotty materials were believed to be  
15:40:32 2 taken to the dump approximately once per month,  
15:40:36 3 you're basing that simply on the type of  
15:40:39 4 materials you were seeing at the landfill?

15:40:41 5 A. Correct.

15:40:42 6 Q. Or at the dump?

15:40:43 7 A. Correct.

15:40:51 8 Q. Do you know what facility of Van  
15:40:58 9 Dyne-Crotty was believed to have produced the  
15:41:02 10 materials brought to the dump?

15:41:03 11 A. Pardon me?

15:41:06 12 Q. Do you know where the materials  
15:41:07 13 from Van Dyne-Crotty came from?

15:41:30 14 A. No.

15:41:30 15 Q. When was the first time that you  
15:41:33 16 saw one of the trucks that you believed was a  
15:41:37 17 Van Dyne-Crotty truck at the dump?

15:41:31 18 A. In the '60s somewhere. I think  
15:41:33 19 '60 -- the later -- middle or later part of the  
15:41:40 20 '60s. But I do remember, like I said before,  
15:41:42 21 we had always had the soap around, either at  
15:41:44 22 the house or at the dump that had the same  
15:41:48 23 containers, and whatever it said on it was the  
15:42:01 24 same.

15:42:04 25 Q. Okay. Did you just say that you

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15:41:58 1 always had the same soap around?

15:42:03 2 A. Pardon me?

15:42:04 3 Q. I thought that you -- in your last

15:42:08 4 answer you mentioned soap.

15:42:08 5 A. No, I was -- I was referring -- I

15:42:10 6 was referring to the Hewitt part of it, that we

15:42:14 7 always had that soap around and we used the

15:42:18 8 towels, so the towels and the soap are two

15:42:22 9 different subjects, but, you know, I know

15:42:26 10 exactly where they came from, because we used

15:42:28 11 them, and if we ran low on the towels, then,

15:42:31 12 you know, that was in my mind, I hope they come

15:42:34 13 back, so --

15:42:41 14 Q. When was the last time that you

15:42:45 15 actually saw a truck that -- that you believed

15:42:49 16 brought -- brought in Van Dyne-Crotty waste to

15:42:52 17 arrive at the dump?

15:42:55 18 A. It would have to be in the -- in

15:42:57 19 the '60s, also, because I only saw them three

15:43:02 20 times. I don't remember if it was all that

15:43:06 21 summer, one summer, or if it was over a couple

15:43:08 22 of years or what, so -- I mentioned before the

15:43:15 23 '60s were so -- so industrialized, or, you

15:43:21 24 know, the things come in and I wouldn't see

15:43:24 25 exactly -- if I was down bulldozing or

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15:43:28 1 whatever, you know, I was paying attention more

15:43:31 2 to what -- what I was pushing than what I

15:43:32 3 was -- could see, you know, so either it had to

15:43:34 4 be secondhand or that I actually saw the

15:43:38 5 vehicles.

15:43:45 6 Q. What kind of vehicle brought in

15:43:48 7 the materials that you believed had come from

15:43:48 8 Van Dyne-Crotty?

15:43:54 9 A. They were like step vans, like

15:43:56 10 bread trucks, you know, had the sliding doors

15:43:59 11 or UPS trucks today.

15:44:12 12 Q. And are you basing that on your

15:44:18 13 recollection of what the trucks at the dump

15:44:18 14 looked like or your recollection of what Van

15:44:22 15 Dyne-Crotty trucks that you saw in the

15:44:24 16 community looked like?

15:44:28 17 A. Well, the times in the '60s, I

15:44:29 18 just remember them being regular vans with no

15:44:34 19 lettering on it, but the -- through the course

15:44:39 20 of the latter years then, the lettering or --

15:44:42 21 or, you know, like I said, I thought it was

15:44:45 22 pretty cool because so it more stands out, but

15:44:47 23 the lettering could have been the same the

15:44:48 24 three times I saw it, it just didn't jump at

15:44:52 25 me.

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15:44:52 1 Q. Okay. Now, I believe you stated

15:44:55 2 that the three trucks that you saw bringing in

15:45:02 3 the type of waste you attributed to Van

15:45:04 4 Dyne-Crotty were seen at the dump during the

15:45:06 5 1960s, is that correct?

15:45:09 6 A. The '60s, yeah. Yes.

15:45:12 7 Q. The '60s? Okay. And that was

15:45:14 8 during the time period when Van Dyne-Crotty's

15:45:17 9 vehicles were not marked with its name?

15:45:21 10 A. I don't -- you know, whether it

15:45:24 11 was and it didn't jump out at me, that's why I

15:45:27 12 say, like a DP&L truck, if you're in the pile

15:45:31 13 sorting things out and all of a sudden you see

15:45:33 14 a truck and you look up and it has a picture of

15:45:36 15 a light bulb man ready to run over you, you

15:45:38 16 remember it, but it -- it wasn't nothing that

15:45:41 17 sticks out in my memory that would give me, you

15:45:48 18 know, that indication.

15:45:47 19 Q. Okay. So as you sit here today,

15:45:49 20 you're not sure that the trucks at the dump

15:45:56 21 that you believed delivering Van Dyne-Crotty

15:46:04 22 waste were actually marked with Van Dyne-Crotty

15:46:04 23 lettering?

15:46:07 24 A. Other than the -- the uniforms,

15:46:09 25 I -- I do believe the uniforms had marking, and

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15:46:18 1 this -- and this --

15:46:18 2 Q. Okay. But you don't remember that

15:46:19 3 the trucks that you saw had the markings?

15:46:21 4 A. No.

15:46:22 5 Q. Okay. Let's talk about the

15:46:28 6 uniforms then. When would you see uniforms

15:46:30 7 that you believe may have had the Van

15:46:32 8 Dyne-Crotty markings on them?

15:46:35 9 A. The latter part of the '60s.

15:46:42 10 Oh --

15:46:43 11 Q. How many --

15:46:44 12 A. I'm sorry. And --

15:46:44 13 Q. Go ahead.

15:46:47 14 A. -- and a lot of coat hangers came.

15:46:50 15 I remember a lot of coat -- coat hangers would

15:46:52 16 come all bound up, and, you know, I haven't

15:47:03 17 really had time to think about some of the

15:47:07 18 smaller companies that dumped there, so I --

15:47:08 19 you know, I'm trying to think as quick as I can

15:47:10 20 and -- but I'm getting a headache, so I

15:47:12 21 apologize, but --

15:47:16 22 Q. Okay. Let's talk about the -- the

15:47:17 23 uniforms first and then we'll talk about the

15:47:20 24 coat hangers.

15:47:21 25 How many uniforms did you see that

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15:47:24 1 you recall having the Van Dyne-Crotty lettering  
 15:47:29 2 on them?  
 15:47:30 3 A. How many?  
 15:47:33 4 Q. Yeah.  
 15:47:34 5 A. Possibly a couple boxes the size  
 15:47:40 6 of what a potato chip bag -- or potato chip  
 15:47:48 7 boxes or a regular cardboard container.  
 15:47:54 8 Sometimes they were on the hangers and, you  
 15:47:56 9 know, and they were just thrown in there,  
 15:47:58 10 but --  
 15:47:58 11 Q. So you saw a couple of boxes of  
 15:48:05 12 uniforms with the Van Dyne-Crotty name on them?  
 15:48:07 13 A. Right.  
 15:48:08 14 Q. And -- and how large were those  
 15:48:12 15 boxes? Can you give me some dimensions?  
 15:48:15 16 A. Twenty-four by 24, maybe 18 inches  
 15:48:19 17 high.  
 15:48:23 18 Q. So 24 inches by 24 inches by  
 15:48:27 19 18 inches?  
 15:48:37 20 A. Correct.  
 15:48:37 21 Q. And you mentioned coat hangers.  
 15:48:41 22 Did the coat hangers have any Van Dyne-Crotty  
 15:48:45 23 lettering on them?  
 15:48:46 24 A. No.  
 15:48:49 25 Q. Do you believe that those coat

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15:48:51 1 hangers came from Van Dyne-Crotty?  
 15:48:52 2 A. Yes.  
 15:48:54 3 Q. What makes you believe that?  
 15:48:57 4 A. Because sometimes I would help.  
 15:49:01 5 If I really didn't have much to do and I wanted  
 15:49:03 6 to smoke a cigarette, I'd just sit there and  
 15:49:05 7 throw stuff off with them and -- and put it in  
 15:49:07 8 the proper piles, and so I remember doing it on  
 15:49:10 9 one occasion, because Mom told me bring some  
 15:49:15 10 home sometimes if she would run short or  
 15:49:18 11 whatever and --  
 15:49:22 12 Q. So what made you believe that  
 15:49:24 13 those coat hangers came from Van Dyne-Crotty?  
 15:49:26 14 MR. ROMINE: Asked and answered.  
 15:49:27 15 THE WITNESS: Because they came off  
 15:49:28 16 the truck.  
 15:49:30 17 BY MR. VAN KLEY:  
 15:49:30 18 Q. They came off of one of those  
 15:49:32 19 three trucks that you were mentioning?  
 15:49:34 20 A. Correct, but then, again --  
 15:49:40 21 Q. What were the coats hangers made  
 15:49:40 22 of?  
 15:49:42 23 A. But then, again, you know, when --  
 15:49:44 24 sometimes when I'd get up to the office and  
 15:49:46 25 some of the stuff would be sitting on the top

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15:50:48 1 of other items that had been there for months  
 15:50:51 2 and I had to take them in, I might, you know,  
 15:50:54 3 saw them, but -- and your second question was,  
 15:50:58 4 they were just regular metal twist type coat  
 15:51:02 5 hangers, not wooden or anything like that.  
 15:51:06 6 They were -- not plastic. I don't think  
 15:51:07 7 plastic was available then, but -- but they  
 15:51:11 8 were all metal.  
 15:51:14 9 Q. Did you actually see the coat  
 15:51:16 10 hangers on the truck or did you see them after  
 15:51:19 11 they had been taken off of the truck?  
 15:51:22 12 A. I threw them off of the truck --  
 15:51:24 13 or actually those I set off the truck. I put  
 15:51:29 14 the boxes --  
 15:51:30 15 Q. How many --  
 15:51:31 16 A. I'd take the boxes of uniforms,  
 15:51:34 17 because I didn't know if I -- they'd fit any of  
 15:51:37 18 us or anything like that, and take -- take them  
 15:51:38 19 home and clean them up, but --  
 15:51:40 20 Q. What happened to the uniforms?  
 15:51:47 21 A. If we felt they were -- the two  
 15:51:51 22 boxes wasn't any use, we took them down to the  
 15:51:56 23 bury pile, the third tier.  
 15:51:00 24 Q. And what happened to them after  
 15:51:02 25 that?

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15:51:03 1 A. We'd bury them.  
 15:51:07 2 Q. But you -- you didn't personally  
 15:51:09 3 see that they were buried?  
 15:51:14 4 A. No.  
 15:51:17 5 Q. And you didn't personally see that  
 15:51:19 6 they were brought to the bury pile?  
 15:51:23 7 A. Yes.  
 15:51:25 8 Q. You did see that?  
 15:51:26 9 A. Yeah, because I remember -- you  
 15:51:30 10 know, stuff could sit in the pile, the  
 15:51:34 11 burnable, for months maybe a few -- it  
 15:51:38 12 depended how quickly it developed, how big the  
 15:51:40 13 pile was.  
 15:51:41 14 And it was the same down on the  
 15:51:43 15 third tier, if -- if grass trimmings and stuff  
 15:51:46 16 like that was building up, then Uncle Alcine --  
 15:51:51 17 I wasn't really allowed to take it that far on  
 15:51:54 18 the dump.  
 15:51:54 19 My job was to use it over where  
 15:51:56 20 the fly ash and where the pit was, because he  
 15:51:59 21 was afraid it was too dangerous, I could go  
 15:52:02 22 over the -- the embankment.  
 15:52:05 23 So he -- he would go -- he might  
 15:52:08 24 wait months, and then one day I'd come there  
 15:52:11 25 and everything would be pushed off to the edge.

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15:52:14 1 Q. You also mentioned some janitorial  
15:52:18 2 products that you believed came from Van  
15:52:20 3 Dyne-Crotty?

15:52:20 4 A. I thinks mops, yellow buckets or  
15:52:25 5 maybe metal buckets. I think they were metal  
15:52:30 6 buckets, but those, I don't remember. I didn't  
15:52:34 7 actually take them off the truck.

15:52:34 8 Q. Okay. So you don't know that  
15:52:39 9 those materials came from Van Dyne-Crotty?

15:52:40 10 A. Correct.

15:52:47 11 Q. And you mentioned something that I  
15:52:47 12 wrote down as paper things that you believed  
15:52:50 13 came from Van Dyne-Crotty. What were those?

15:52:54 14 A. Like bags of shredded paper,  
15:53:00 15 something you'd see out of a bathroom trash  
15:53:07 16 can, you know, toilet paper. Oh, wait, toilet  
15:53:12 17 paper.

15:53:13 18 I think we got toilet paper from  
15:53:18 19 there, too. I really -- I think we did get  
15:53:23 20 toilet paper from them, too, so --

15:53:28 21 Q. So how do you know those materials  
15:53:31 22 came from Van Dyne-Crotty?

15:53:35 23 A. Because when you got to go, like  
15:53:38 24 the paper towels, you know, they were very  
15:53:40 25 valuable there.

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15:53:43 1 Q. Okay. So how do you know that Van  
15:53:44 2 Dyne-Crotty was the origin of those papers?

15:53:48 3 A. Because no one else, that I  
15:53:52 4 remember, would bring such a thing.

15:53:54 5 Q. You didn't -- you didn't see any  
15:53:58 6 of those paper things on the trucks that you  
15:54:01 7 believed came from Van Dyne-Crotty?

15:54:02 8 A. No, it wasn't on the -- at least  
15:54:05 9 the one load that I just mentioned I took the  
15:54:09 10 uniforms and the coat hangers and the gloves.

15:54:17 11 Q. So you just made the assumption,  
15:54:19 12 that based on the nature of the paper, that it  
15:54:22 13 must have come from Van Dyne-Crotty?

15:54:23 14 A. Correct.

15:54:25 15 Q. You also mentioned that there were  
15:54:29 16 some -- some dispensers, some towel dispensers  
15:54:33 17 or other metal dispensers that you believed  
15:54:36 18 came from Van Dyne-Crotty?

15:54:36 19 A. Yeah, the ones that -- that roll  
15:54:40 20 around -- the cloth rolls around it. Some of  
15:54:41 21 them might have mirrors on it and then the  
15:54:44 22 paper ones that you took the key and lifted  
15:54:46 23 them up and put the towels that we used that  
15:54:50 24 were maybe six inches by ten inches and stuff  
15:54:55 25 them in there, those -- those were on -- on a

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15:54:59 1 truck.

15:55:01 2 Q. Okay. And -- and those dispensers  
15:55:04 3 were both the cloth and the paper towels that  
15:55:08 4 were recycled to Franklin Iron and Metal?

15:55:09 5 A. Correct. If I'm not mistaken,  
15:55:13 6 there were metal toilet paper holders, too.  
15:55:24 7 Something you would --

15:55:24 8 Q. Did you actually -- go ahead.

15:55:24 9 A. Something you would actually have  
15:55:29 10 in a bathroom at a grocery store, you know, a  
15:55:32 11 bathroom, or, you know, office or something  
15:55:34 12 like that, but --

15:55:39 13 Q. Okay. Did you actually see any  
15:55:42 14 dispensers on the trucks that you believed came  
15:55:45 15 from Van Dyne-Crotty?

15:55:46 16 A. No.

15:55:50 17 Q. Other than what I have mentioned  
15:55:54 18 during my questions, are there any other types  
15:55:56 19 of materials that came from Van Dyne -- that  
15:56:01 20 you believe came from Van Dyne-Crotty and were  
15:56:03 21 taken to the dump?

15:56:05 22 A. Not at this time.

15:56:10 23 MR. VAN KLEY: All right. I have no  
15:56:10 24 more questions at this time.

15:56:14 25 MR. ROMINE: I'm going to -- I'm

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15:56:18 1 going to do about five minutes of -- of redirect,  
15:56:18 2 not on Ohio Bell, not on Van Dyne-Crotty, but on  
15:56:23 3 Hewitt Soap.

## REDIRECT EXAMINATION

15:56:23 4 BY MR. ROMINE:

15:56:24 5 Q. And, Mr. Grillot, my question is,  
15:56:26 6 I think you had mentioned that you remember the  
15:56:30 7 smell of the Hewitt Soap that came to the dump?

15:56:35 8 A. Yeah.

15:56:35 9 Q. Did you smell that smell at any  
15:56:38 10 time when you weren't at the dump?

15:56:39 11 A. Yeah.

15:56:40 12 Q. When was that?

15:56:43 13 A. When I went over to get the  
15:56:44 14 kitchen cabinets at the Davis Building.

15:56:46 15 Q. Near the -- near the Hewitt Soap  
15:56:48 16 plant?

15:56:49 17 A. Correct. I mean, it filled that  
15:56:52 18 whole east end Dayton, and he said, well, you  
15:56:56 19 ought to be here when it stinks. I guess  
15:56:58 20 there's various steps that they use to make  
15:57:00 21 soap and --

15:57:02 22 Q. Okay. And then you mentioned that  
15:57:07 23 after you had worked for Liberal Markets, you  
15:57:10 24 came back to the dump on occasion and you would

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15:57:13 1 wash your hands like in the -- in Uncle Kenny's  
 15:57:17 2 office?  
 15:57:19 3 A. Right.  
 15:57:18 4 Q. And that same soap was there at  
 15:57:20 5 that time?  
 15:57:20 6 A. Correct.  
 15:57:21 7 Q. And you had also mentioned like  
 15:57:24 8 one -- I think cloth towel dispensers that came  
 15:57:27 9 on a truck with the driver that said he came --  
 15:57:31 10 had came from Hewitt Soap?  
 15:57:31 11 A. Correct.  
 15:57:34 12 Q. And where was that -- where was  
 15:57:34 13 the cloth disposed of, not the dispenser, the  
 15:57:38 14 cloth?  
 15:57:38 15 A. Like I said, I don't remember, but  
 15:57:43 16 what we did normally was cut anything that  
 15:57:47 17 wasn't magnetized to it, it would go down to  
 15:57:51 18 the third tier.  
 15:57:51 19 Q. Okay.  
 15:57:52 20 MR. ROMINE: All right. Mr. Van  
 15:57:55 21 Kley, do you have any recross?  
 15:57:58 22 MR. VAN KLEY: Yeah, just briefly.  
 15:57:58 23 RECROSS-EXAMINATION  
 15:57:58 24 BY MR. VAN KLEY:  
 15:58:00 25 Q. What did the soap smell like?

15:58:05 1 A. Real perfume -- perfumey (sic),  
 15:58:07 2 not like -- other than the bars that had the  
 15:58:12 3 real gritty stuff on it, but they were real  
 15:58:18 4 scented, I guess that would be the word.  
 15:58:19 5 Q. So it was a scented soap?  
 15:58:23 6 A. Pardon me?  
 15:58:23 7 Q. So the -- the soap that you were  
 15:58:26 8 smelling was a scented soap?  
 15:58:28 9 A. It came from the bars, no, the --  
 15:58:31 10 the regular shampoo, and the other that was in  
 15:58:35 11 the dispenser, I would think that they were  
 15:58:38 12 hand soap, didn't smell near what the hand --  
 15:58:41 13 the bars that were in the fancy boxes.  
 15:58:48 14 Q. So -- so the smell that you  
 15:58:52 15 noticed at the Hewitt Soap plant smelled like  
 15:58:58 16 the bar soap you were using at the dump?  
 15:59:01 17 A. Yes. Now, run that by me again.  
 15:59:04 18 Q. Yeah. Did the smell that you  
 15:59:11 19 noticed at the Hewitt Soap plant smell the same  
 15:59:14 20 as the bar soap you were using at the dump?  
 15:59:18 21 A. No.  
 15:59:20 22 Q. It did not?  
 15:59:22 23 A. No.  
 15:59:23 24 Q. When you said that you noticed the  
 15:59:26 25 smell at the dump and then you noticed the same

15:59:30 1 smell at the Hewitt Soap plant -- is that what  
 15:59:34 2 you were saying?  
 15:59:35 3 A. Yeah, the smell inside the -- the  
 15:59:39 4 van when the guy brought the stuff was more  
 15:59:45 5 intense, and then the boxes that -- the  
 15:59:49 6 decorative ones would have the scent, but  
 15:59:50 7 unless you put it in, you know, a closed area,  
 15:59:54 8 but it was more the van that I smelled and I  
 15:59:58 9 related to it from being over on -- on -- by  
 16:00:01 10 the plant.  
 16:00:08 11 Q. And -- and what did that smell  
 16:00:10 12 like?  
 16:00:11 13 MR. ROMINE: Asked and answered.  
 16:00:12 14 THE WITNESS: Like I said --  
 16:00:13 15 BY MR. VAN KLEY:  
 16:00:14 16 Q. I mean, this is the smell that you  
 16:00:15 17 said smelled like a -- like a perfume?  
 16:00:17 18 A. Correct, it was very scented.  
 16:00:20 19 Q. Okay. And is this the same kind  
 16:00:25 20 of smell that you would smell from a scented  
 16:00:32 21 soap made by anybody else besides Hewitt Soap?  
 16:00:37 22 A. I don't -- I don't understand that  
 16:00:38 23 question.  
 16:00:39 24 Q. Okay. Well, do you believe that  
 16:00:43 25 Hewitt Soap was the only company that made

16:00:47 1 scented soaps?  
 16:00:49 2 A. I don't think so. I'm -- I'm  
 16:00:53 3 sure other companies did, but we're not  
 16:00:56 4 talking --  
 16:00:57 5 Q. Do you have any --  
 16:00:57 6 A. If you're talking in the general,  
 16:00:58 7 I would say it would definitely smell like a  
 16:01:01 8 girlie soap, you know, so --  
 16:01:03 9 Q. Um-hum. Okay. Do you have any  
 16:01:06 10 reason to believe that -- that the scented soap  
 16:01:12 11 made by Hewitt Soap smelled any different than  
 16:01:15 12 the scented soap made by other manufacturers?  
 16:01:21 13 A. I wasn't that much into like Avon  
 16:01:29 14 and -- and some other companies, but the smell  
 16:01:31 15 was a lot more scented than anything, you know,  
 16:01:35 16 that I've smelled previously, so if that  
 16:01:41 17 answers your question --  
 16:01:43 18 Q. Um-hum. But I take it that you  
 16:01:45 19 are not a -- a frequent user of scented -- the  
 16:01:49 20 scented soap, given that you described it as a  
 16:01:53 21 girlie smell?  
 16:01:55 22 A. I was a dude, I didn't want to  
 16:01:57 23 smell like a girl.  
 16:02:00 24 Q. So you weren't really -- you  
 16:02:03 25 weren't really familiar with what the various

16:02:13 1 soap manufacturers' scented soap products  
 16:02:13 2 smelled like?  
 16:02:14 3 A. No.  
 16:02:14 4 Q. You couldn't tell the scented soap  
 16:02:18 5 from one company from another company?  
 16:02:20 6 A. Correct.  
 16:02:21 7 Q. All right.  
 16:02:21 8 A. Other than the --  
 16:02:23 9 Q. I understand.  
 16:02:24 10 A. -- other than the -- the van and  
 16:02:31 11 the -- the air around the company smelled  
 16:02:31 12 pretty much similar, you know. I couldn't --  
 16:02:34 13 I'm not really good at smelling perfume either.  
 16:02:37 14 You know, I couldn't tell -- my girlfriend at  
 16:02:39 15 the -- or my wife at the time used Tabu, and I  
 16:02:41 16 couldn't tell it from a fragrance -- you know,  
 16:02:43 17 I'm not a specialist on fragrance, so --  
 16:02:44 18 Q. And I believe that you said that  
 16:02:50 19 you noticed that smell in one of the vans that  
 16:02:57 20 brought materials to the dump or more or --  
 16:02:59 21 A. Correct, the one van that I helped  
 16:03:02 22 unload and the gentleman said where it came  
 16:03:03 23 from.  
 16:03:04 24 Q. Okay. And other than that, you  
 16:03:08 25 didn't notice that smell anywhere else in the

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16:03:11 1 dump at any other time?  
 16:03:12 2 A. And around the company or the  
 16:03:16 3 building.  
 16:03:17 4 Q. Okay. So other than the --  
 16:03:22 5 noticing the smell at Hewitt Soap's plant and  
 16:03:26 6 noticing the smell in the one van, you did not  
 16:03:30 7 notice that smell anywhere else at the dump?  
 16:03:33 8 A. Like I mentioned a few minutes  
 16:03:35 9 ago, if the -- the boxes that had the  
 16:03:39 10 decorative soap in it and it was kept somewhere  
 16:03:41 11 enclosed, I would smell it, okay.  
 16:03:47 12 MR. VAN KLEY: Okay. I have no  
 16:03:48 13 further questions about Hewitt Soap.  
 16:03:49 14 THE WITNESS: Thank you.  
 16:03:51 15 MR. ROMINE: See you all tomorrow.  
 16:03:54 16 (Thereupon, the deposition was  
 16:03:54 17 adjourned at 4:03 p.m.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

MIKE MOBLEY REPORTING 937-222-2259

1 STATE OF OHIO)  
 2 COUNTY OF MONTGOMERY) SS: CERTIFICATE  
 3 I, Barbara A. Nikolai, a Notary  
 4 Public within and for the State of Ohio, duly  
 5 commissioned and qualified.  
 6 DO HEREBY CERTIFY that the  
 7 above-named EDWARD GRILLOT, was by me first duly  
 8 sworn to testify the truth, the whole truth and  
 9 nothing but the truth.  
 10 Said testimony was reduced to  
 11 writing by me stenographically in the presence  
 12 of the witness and thereafter reduced to  
 13 typewriting.  
 14 I FURTHER CERTIFY that I am not a  
 15 relative or Attorney of either party, in any  
 16 manner interested in the event of this action,  
 17 nor am I, or the court reporting firm with which  
 18 I am affiliated, under a contract as defined in  
 19 Civil Rule 28(D).  
 20  
 21  
 22  
 23  
 24  
 25

MIKE MOBLEY REPORTING 937-222-2259

1 IN WITNESS WHEREOF, I have hereunto set  
 2 my hand and seal of office at Dayton, Ohio, on  
 3 this 30th day of December, 2013.  
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BARBARA A. NIKOLAI  
 NOTARY PUBLIC, STATE OF OHIO  
 My commission expires 12-13-2018

MIKE MOBLEY REPORTING 937-222-2259

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE SOUTHERN DISTRICT OF OHIO  
 3 WESTERN DIVISION  
 4 \* \* \*  
 5 HOBART CORPORATION,  
 6 et al.,  
 7 Plaintiffs, CASE NO. 3:13-cv-115  
 8 vs. VOLUME II  
 9 THE DAYTON POWER AND LIGHT  
 10 COMPANY, et al.,  
 11 Defendants.  
 12 \* \* \*  
 13 Deposition of EDWARD GRILLOT, Witness  
 14 herein, called by the Plaintiffs for direct  
 15 examination pursuant to the Rules of Civil  
 16 Procedure, taken before me, Barbara A. Nikolai, a  
 17 Notary Public in and for the State of Ohio, at  
 18 Sebaly, Shillito + Dyer, 1900 Kettering Tower,  
 19 40 North Main Street, 13th Floor Conference Room,  
 20 Dayton, Ohio, on Tuesday, December 17th, 2013, at  
 21 9:01 o'clock a.m.  
 22 \* \* \*  
 23  
 24  
 25

1	EXAMINATIONS CONDUCTED	PAGE
2	BY MR. ANDREASEN:	306
3	BY MR. COUGHLIN:	346
4	BY MR. COLLIER:	387
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6	BY MR. MCCALL:	430
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10	BY MR. RUDLOFF:	602
11	BY MR. HAUGHEY:	615
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13	BY MR. SHARETT:	695
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1	EXHIBITS MARKED	PAGE
2	(Thereupon, Defendants' Exhibit	308
3	Number 2, dumping receipt tickets,	
4	was marked for purposes of	
5	identification.)	
6	(Thereupon, Defendants' Exhibit	446
7	Number 3, petition to enter a plea	
8	of guilty, was marked for purposes	
9	of identification.)	
10	(Thereupon, Defendants' Exhibit	464
11	Number 4, South Dayton Dump and	
12	Landfill site map, was marked for	
13	purposes of identification.)	
14	(Thereupon, Defendants' Exhibit	507
15	Number 5, South Dayton Dump and Land	
16	Site map, was marked for purposes of	
17	identification.)	
18	(Thereupon, Defendants' Exhibit	649
19	Number 6, Google map, was marked for	
20	purposes of identification.)	
21	(Thereupon, Defendants' Exhibit	658
22	Number 7, photocopy of a color	
23	photograph of a Container Service	
24	truck, was marked for purposes of	
25	identification.)	

1	(Thereupon, Defendants' Exhibit	666
2	Number 8, deposition of Michael A.	
3	Wendling, was marked for purposes of	
4	identification.)	
5	(Thereupon, Defendants' Exhibit	669
6	Number 9, deposition of Horace	
7	Boesch, Jr., taken on the 28th day	
8	of February, 2006, was marked for	
9	purposes of identification.)	
10	(Thereupon, Defendants' Exhibit	685
11	Number 10, deposition of Horace	
12	Boesch, Jr., taken on December 1st,	
13	2011, was marked for purposes of	
14	identification.)	
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\* \* \*

09:01:51 1 MR. ANDREASEN: Would the people on  
09:01:52 2 the phone please identify themselves for the court  
09:01:53 3 reporter?  
09:01:56 4 MR. WICK: Bill Wick, Wactor and  
09:01:56 5 Wick, for Bridgestone Americas Tire Operations,  
09:01:56 6 LLC.  
09:01:56 7 MS. VANDEGRIFT: Sasha VanDeGrift  
09:01:56 8 sitting in for Shannon Costello representing  
09:02:13 9 Fickert Development Corporation and Dayton  
09:02:14 10 Industrial Drum.  
09:02:14 11 MR. SHARETT: Anthony Sharett,  
09:02:17 12 Bricker and Eckler, on behalf of Dayton Power and  
09:02:20 13 Light.  
09:02:24 14 MS. HUNT: Ann Hunt, McDonald Hopkins  
09:02:24 15 for Day International.  
09:02:28 16 MR. SAXTON: John Saxton on behalf of  
09:02:30 17 Peerless.  
09:02:30 18 MR. HARRIS: Glenn Harris, Ballard  
09:02:37 19 Spahr, on behalf of GlaxoSmithKline.  
09:02:39 20 MS. WRIGHT: Vicki Wright for  
09:02:41 21 Pharmacia, LLC.  
09:02:41 22 MR. KOTTHA: Arun Kottha filling in  
09:02:43 23 for Marty Lewis on behalf of Valley Asphalt.  
09:03:08 24 MR. ANDREASEN: Anyone else on the  
09:03:08 25 phone?

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09:03:08 1 EDWARD GRILLOT  
09:03:08 2 of lawful age, Witness herein, having been first  
09:03:08 3 duly cautioned and sworn, as hereinafter  
09:03:08 4 certified, was examined and said as follows:  
09:03:08 5 CROSS-EXAMINATION  
09:03:20 6 BY MR. ANDREASEN:  
09:03:20 7 Q. Mr. Grillo, my name is John  
09:03:22 8 Andreasen, and I want to go over a few things  
09:03:24 9 that you testified about yesterday.  
09:03:29 10 Yesterday you indicated the  
09:03:31 11 medications that you've been on on a regular  
09:03:33 12 basis. Are there any medications that you're  
09:03:35 13 on that would impair your ability to understand  
09:03:39 14 questions or speak truthfully in your answers?  
09:03:42 15 A. No.  
09:03:45 16 Q. Could we see Exhibit 3 from the  
09:03:51 17 previous deposition? It's the ones with the  
09:03:56 18 receipts.  
09:04:07 19 MR. ANDREASEN: Do you have that?  
09:04:07 20 MR. HAUGHEY: Could we go off the  
09:04:07 21 record?  
09:04:07 22 (Thereupon, an off-the-record  
09:04:07 23 discussion was had.)  
09:04:09 24 BY MR. ANDREASEN:  
09:04:09 25 Q. On that exhibit, you testified

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09:04:34 1 yesterday that those are receipts from trips to  
09:04:39 2 the landfill, is that correct?  
09:04:40 3 A. Correct.  
09:04:41 4 Q. Okay. The top two receipts, the  
09:04:45 5 ones in the middle of the page, both have  
09:04:48 6 handwritten on them DPL. Does that indicate  
09:04:53 7 who the customer was that brought the waste to  
09:04:53 8 the landfill?  
09:04:57 9 A. No, that's a D, DP&L.  
09:04:59 10 Q. That's what I -- I'm sorry, DPL?  
09:05:01 11 A. Yeah, Dayton Power and Light.  
09:05:02 12 Q. Okay. Was a notation like that  
09:05:05 13 put on every waste receipt ticket indicating  
09:05:09 14 who the customer was?  
09:05:11 15 A. To my knowledge, yes.  
09:05:12 16 Q. Okay. Prior to the beginning of  
09:05:20 17 your deposition yesterday, had you spoken at  
09:05:24 18 all to Mr. Aldridge about this matter or the  
09:05:29 19 previous lawsuits and your previous deposition?  
09:05:32 20 A. You talking about Bob Aldridge?  
09:05:33 21 Q. Yes.  
09:05:34 22 A. No.  
09:05:34 23 Q. Okay. Is Mr. Brandon still alive?  
09:05:38 24 A. No.  
09:05:39 25 Q. Okay.

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09:05:41 1 MR. HAUGHEY: Excuse me. This is  
09:05:42 2 Steve Haughey. If we're done with that, can we  
09:05:44 3 get that marked --  
09:05:44 4 MR. ANDREASEN: Sure.  
09:05:45 5 MR. HAUGHEY: -- and go ahead and get  
09:05:47 6 it into the record since all of us have it by  
09:05:49 7 e-mail, and can we go ahead and mark that as  
09:05:55 8 Grillo Deposition Exhibit 3, which is from when  
09:05:57 9 it was used in 2012?  
09:05:57 10 MR. ANDREASEN: Do we need copies of  
09:05:57 11 it?  
09:05:59 12 MR. HAUGHEY: No, everybody has that,  
09:06:02 13 but the court reporter does not yet have that, so  
09:06:02 14 we want to make sure that she can leave here with  
09:06:02 15 that.  
09:06:06 16 THE WITNESS: Well, this is yours.  
09:06:06 17 isn't it?  
09:06:10 18 MR. HAUGHEY: Yeah. We'll take  
09:06:11 19 Jeff's, you can get it printed again, so we'll  
09:06:13 20 take -- we'll keep Jeff's and he can use Jeff's.  
09:06:14 21 MR. IRELAND: You can have it.  
09:06:14 22 MR. HAUGHEY: All right.  
09:06:15 23 MR. ANDREASEN: Thank you.  
09:06:15 24 (Thereupon, Defendants' Exhibit  
09:06:15 25 Number 2, dumping receipt tickets, was marked for

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09:07:16 1 purposes of identification.)

09:07:16 2 BY MR. ANDREASEN:

09:07:16 3 Q. Mr. Grillot, I want to ask you

09:07:18 4 some questions about your testimony yesterday

09:07:22 5 regarding calls. You indicated yesterday that

09:07:29 6 waste was brought to the landfill of McCall's

09:07:34 7 by Container Service, Larry Brandon, is that

09:07:38 8 correct?

09:07:38 9 A. Correct.

09:07:39 10 Q. Okay. When Larry Brandon or

09:07:42 11 someone working for Container Service would

09:07:44 12 bring waste in for -- from McCall's, was a

09:07:50 13 waste receipt ticket filled out?

09:07:53 14 A. Every vehicle, unless it was in

09:07:55 15 the evening, had to go by the office unless

09:08:00 16 they could sneak by, you know, which was very

09:08:05 17 unlikely, somebody would see them, they had to

09:08:07 18 have a ticket.

09:08:07 19 So they had -- apparently they had

09:08:09 20 to take it back to their office, too, but Uncle

09:08:13 21 Alcine wanted to make sure that, you know, he

09:08:15 22 got credit for every load, so, you know, and

09:08:19 23 that was the only way, so --

09:08:20 24 Q. And was McCall's one of the

09:08:24 25 landfill customers that you indicated yesterday

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09:08:27 1 was sent bills or invoices at some point in

09:08:37 2 time rather than pay as they came in?

09:08:41 3 A. No, the -- you had to have a

09:08:44 4 ticket. I stapled it alphabetically. Then it

09:08:49 5 went to Alcine's hand and then it went to

09:08:51 6 his -- Leone, which was his wife.

09:08:53 7 And after that, I indicated I

09:08:55 8 didn't know what kind of invoice, you know, or

09:08:59 9 anything like that, so --

09:08:59 10 Q. Do you know whether or not when

09:09:01 11 Container Service would bring in waste from

09:09:04 12 McCall's, that they would pay at the gate for

09:09:08 13 that waste?

09:09:10 14 A. No.

09:09:11 15 Q. No, you don't know, or, no, they

09:09:13 16 did not?

09:09:14 17 A. No, I don't know.

09:09:16 18 Q. Okay. When customer service -- or

09:09:20 19 Container Service would bring in waste from

09:09:24 20 McCall's, would that truck, that Container

09:09:29 21 Service truck, also have waste from other

09:09:33 22 customers?

09:09:35 23 A. No, because when the Dumpster

09:09:39 24 started being developed, they came up with one

09:09:41 25 that had a push where they could compact, and

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09:09:45 1 so when they put it on a rollback, it went

09:09:50 2 directly from the spot that it sat directly to

09:09:54 3 the dump, so they didn't go anywhere else to,

09:09:57 4 you know, pick stuff up.

09:09:59 5 Q. So if the truck only had half a

09:10:03 6 load, it wouldn't pick up waste from any other

09:10:05 7 customer to make a full load?

09:10:07 8 A. No, no, because you have to

09:10:08 9 understand when it goes into the pit where

09:10:10 10 the -- the Dumpster is, it connects to a

09:10:14 11 machine which pushes, and so when they pull it

09:10:17 12 off -- you know, I have never heard or never

09:10:21 13 seen that they would take and go reconnect it

09:10:23 14 to another machine, but it's possible.

09:10:24 15 Q. So did the Container Service truck

09:10:32 16 have some kind of a hydraulic lift or something

09:10:35 17 that would lift up a Dumpster from the

09:10:37 18 customer's location?

09:10:38 19 A. It has a hook and you hook it onto

09:10:42 20 the hook on the Dumpster, and then it would

09:10:47 21 pull it up with a -- a crank and then -- on top

09:10:51 22 of the truck, and then you'd lower it back

09:10:53 23 down.

09:10:54 24 Q. So did Container Service provide

09:10:58 25 the Dumpsters to the customers that they picked

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09:11:01 1 up from?

09:11:01 2 A. They came from Ed -- I forgot his

09:11:10 3 name, but he was the third entity within Larry

09:11:16 4 Brandon and Bob Aldridge operation. He made

09:11:20 5 these Dumpsters.

09:11:22 6 They welded them there, they got

09:11:24 7 the -- the raw material and welded them

09:11:26 8 together, built them there, and that's where I

09:11:28 9 indicated before, that I painted, and so I know

09:11:32 10 they made them from there, so --

09:11:33 11 Q. Do you know whether or not the

09:11:39 12 Dumpsters that came from McCall's were full on

09:11:51 13 every trip to the dump?

09:11:52 14 A. Yeah, because they -- sometimes

09:11:54 15 they'd stick out and they'd have -- they had to

09:11:56 16 put a net so the paper wouldn't blow out from

09:12:00 17 behind, because when I had shoveled snow that

09:12:05 18 one year, one of my jobs was to make sure --

09:12:08 19 because a lot of the paper, when they'd pull

09:12:09 20 away, would get down in the Dumpster pit where

09:12:13 21 the Dumpster was, and I had to clean that up so

09:12:14 22 that the net -- you could tell it was full.

09:12:17 23 Q. Okay. And you indicated yesterday

09:12:22 24 that you started hanging out and working at the

09:12:28 25 dump when you were eight years old, is that

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09:12:30 1 correct?

09:12:30 2 A. Um-hum.

09:12:31 3 Q. So that would have been 1960?

09:12:33 4 A. You know, I remember younger

09:12:36 5 times, but, yeah, that was my best

09:12:36 6 recollection.

09:12:37 7 Q. Okay. And at that point in time,

09:12:39 8 you were in elementary school, correct?

09:12:42 9 A. (Witness nodding head up and

09:12:43 10 down.)

09:12:43 11 Q. Okay. And then I think you

09:12:44 12 testified that you continued working at the

09:12:50 13 dump until you were 18 years old or 17 years --

09:12:55 14 16 years old, sorry?

09:12:57 15 A. Well, that's when -- till to the

09:13:00 16 point where I found other employment, and then

09:13:03 17 I'd go there, I mentioned, either in the

09:13:05 18 evenings -- you know, I'd get off work maybe at

09:13:07 19 two at Liberal's Markets and then I'd go down

09:13:11 20 and help Kenny out for a few hours before they

09:13:12 21 closed down at 5:30 and then on the weekends.

09:13:15 22 Q. And did you do that also when you

09:13:18 23 worked at Doyle?

09:13:24 24 A. Yeah, um-hum.

09:13:26 25 Q. Okay. And you started working at

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09:13:22 1 Doyle when you were 16, correct?

09:13:25 2 A. Yes.

09:13:25 3 Q. Okay. So at that point in time

09:13:32 4 before you quit school and went to work at

09:13:34 5 Doyle, you would have been in junior high, is

09:13:40 6 that correct?

09:13:40 7 A. Yes.

09:13:41 8 Q. So during the period from at least

09:13:48 9 1960 until 1968, you were in school and worked

09:13:56 10 at the dump part-time?

09:13:59 11 A. Yes.

09:14:00 12 Q. Okay. Was there ever a point in

09:14:06 13 time between 1960 when you were eight years old

09:14:14 14 and the mid '80s, when you say you stopped

09:14:17 15 working at the landfill, that you worked at the

09:14:20 16 landfill full-time?

09:14:23 17 A. Yeah. It would have been mostly

09:14:26 18 like spring, summer and fall.

09:14:27 19 Q. During that entire period of time?

09:14:29 20 A. Yeah, um-hum.

09:14:30 21 Q. Okay.

09:14:37 22 A. Other than the weekends. On the

09:14:39 23 weekends I went there and worked to make a

09:14:41 24 little bit of extra money, so --

09:14:42 25 Q. And the landfill was open on the

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09:14:45 1 weekends?

09:14:45 2 A. Saturday. Now, Sunday, I'd go

09:14:48 3 there and do things basically for myself. I

09:14:52 4 mean, I'd get TVs and get wood for Dad's

09:14:54 5 fireplace, stuff like that, so --

09:14:58 6 Q. But no trucks would come in on

09:15:01 7 Sundays?

09:15:04 8 A. No.

09:15:04 9 Q. Okay. But they did come in on

09:15:06 10 Saturdays?

09:15:07 11 A. Yes.

09:15:07 12 Q. All day Saturday?

09:15:08 13 A. Yes.

09:15:08 14 Q. Okay. How many times did you see

09:15:16 15 or how many times can you recall seeing a

09:15:20 16 Container Service truck bringing waste to the

09:15:24 17 landfill from McCall's?

09:15:28 18 A. At least once a day.

09:15:31 19 Q. And those Dumpsters were always

09:15:31 20 full?

09:15:34 21 A. Yes, um-hum.

09:15:35 22 Q. Every day?

09:15:36 23 A. Just about, yeah.

09:15:37 24 Q. Okay. You indicated yesterday

09:15:45 25 that the waste consisted of cardboard from

MIKE MOBLEY REPORTING 937-222-2259

09:15:49 1 McCall's, correct?

09:15:50 2 A. Um-hum.

09:15:50 3 Q. And what happened to that

09:15:52 4 cardboard?

09:15:53 5 A. The cardboard went into -- on the

09:15:56 6 top tier, which was collected for salvage.

09:16:02 7 Q. Okay. And then it was shipped

09:16:04 8 offsite?

09:16:05 9 A. Yes.

09:16:05 10 Q. You indicated that the waste also

09:16:08 11 contained some paper?

09:16:09 12 A. Correct.

09:16:09 13 Q. And I think you indicated that the

09:16:12 14 paper was separated from the other waste?

09:16:16 15 A. If it had ink on it, it was sent

09:16:21 16 down to the third tier for bury, and then if it

09:16:26 17 didn't have ink, it was -- could be shredded

09:16:28 18 for Larry Brandon's operation, which was Dayton

09:16:29 19 Fiber.

09:16:34 20 He would have -- it wasn't till he

09:16:38 21 got -- had -- had hired two other guys to put

09:16:43 22 the newspaper and stuff into the other dump

09:16:46 23 truck -- I mean, the trash truck.

09:16:48 24 Q. Okay. So is it those two other

09:16:50 25 guys that would separate the paper out from the

MIKE MOBLEY REPORTING 937-222-2259

09:16:52 1 other waste?

09:16:53 2 A. Right.

09:16:53 3 Q. Before the waste went anywhere on

09:16:56 4 the landfill?

09:16:57 5 A. Right.

09:16:57 6 Q. Do you remember those gentlemen's

09:16:57 7 names?

09:17:03 8 A. No, I do not.

09:17:04 9 Q. I think you indicated that there

09:17:14 10 were pallets and skids from McCall's?

09:17:16 11 A. Yeah.

09:17:16 12 Q. Were those in the Dumpster?

09:17:18 13 A. No.

09:17:18 14 Q. How did those come in?

09:17:24 15 A. Usually Brandon would have -- they

09:17:26 16 had like a pickup truck that they used to put

09:17:28 17 the wood and stuff on and it would come that

09:17:39 18 way, because you couldn't put them in the

09:17:41 19 packer because the packer only had a entrance

09:17:45 20 from the packer about that big (indicating), so

09:17:49 21 there wasn't -- they didn't come in the same

09:17:52 22 vehicle.

09:17:52 23 Q. Now, you're using your hands to

09:17:55 24 indicate size. Could you tell me approximately

09:17:57 25 what size that opening was in the packer?

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09:18:02 1 A. Probably 24 by 24 maybe.

09:18:08 2 Q. Okay. Did the pallets and skids

09:18:19 3 from McCall's come in a Container Service

09:18:25 4 vehicle?

09:18:35 5 A. Yes.

09:18:36 6 Q. Okay. And were the vehicles --

09:18:30 7 the Container Service vehicles that brought in

09:18:33 8 the cardboard and paper waste and the trucks

09:18:37 9 that brought in the pallets and skids, did

09:18:40 10 those all have some type of a logo or writing

09:18:44 11 on them indicating that they were Container

09:18:46 12 Service trucks?

09:18:48 13 A. Most of the time, yes.

09:18:50 14 Q. Okay. Now, when you were in

09:18:53 15 elementary school and junior high, what time

09:18:56 16 would you go to the landfill?

09:19:03 17 A. It varied. We had -- I think I

09:19:05 18 got out of school like 2:30 maybe, then I'd go

09:19:09 19 home and change and then go down there for a

09:19:12 20 couple hours.

09:19:13 21 Q. What time would the Container

09:19:16 22 Service trucks that contained McCall's waste

09:19:19 23 come to the landfill?

09:19:21 24 A. It would vary. Most of the time

09:19:25 25 about maybe two o'clock, three o'clock.

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09:19:27 1 something like that. At the end of the day, I

09:19:30 2 guess, after they got -- got full.

09:19:33 3 Q. So when you say that the waste

09:19:38 4 came in every day, were you always there every

09:19:44 5 day when that waste would come in from

09:19:46 6 McCall's?

09:19:46 7 A. No.

09:19:47 8 Q. Then how do you know that it came

09:19:49 9 in every day?

09:19:50 10 A. Because when I got there, then I

09:19:52 11 would have to either help separate the

09:19:56 12 newspaper, cardboard and what went down on the

09:20:01 13 third tier and put it in skids that had walls

09:20:04 14 on it and we'd take it out from the load.

09:20:10 15 We had to clean the skid off --

09:20:13 16 the pad off as quick as we could, because, you

09:20:14 17 know, the other big trucks would bring the

09:20:17 18 skids and that was more indicated, and if they

09:20:21 19 came and dumped it where we didn't want it

09:20:24 20 where it was right in front of the incinerator,

09:20:27 21 then we'd mess up the whole operation, so --

09:20:32 22 and normally they either got close to where we

09:20:34 23 couldn't get the incinerator going, because the

09:20:36 24 spark would have caught -- because it was

09:20:38 25 paper, and so it would start the whole pad on

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09:20:40 1 fire, so I would know by getting there and

09:20:42 2 having to help separate.

09:20:43 3 Q. And your memory is that you did

09:20:45 4 that every day?

09:20:48 5 A. Just about, yeah.

09:20:48 6 Q. For McCall's waste?

09:20:53 7 A. Well, there was a couple other

09:20:56 8 companies that brought mostly cardboard and it

09:20:59 9 was on -- tried to be dumped in the same area,

09:21:03 10 yes.

09:21:03 11 Q. But every day from 1960 to 1978,

09:21:10 12 you personally separated McCall's waste?

09:21:10 13 A. No.

09:21:19 14 Q. Oh, I'm sorry, yes. Thank you.

09:21:30 15 1960 to 1968, I meant to say.

09:21:33 16 A. Right.

09:21:34 17 Q. Every day you did not separate

09:21:36 18 McCall waste, correct?

09:21:40 19 A. Not every day, no.

09:21:40 20 Q. Okay. Now, yesterday you

09:21:44 21 testified that Container Service would bring in

09:21:46 22 McCall's waste a couple times per week.

09:21:53 23 A. That was probably indicating the

09:21:56 24 skid. The skids wasn't as often because it was

09:22:01 25 a company that had more paper waste than it did

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09:22:04 1 wood waste, so --

09:22:08 2 Q. Did any of McCall's waste go to

09:22:13 3 the incinerator?

09:22:13 4 A. Skids.

09:22:14 5 Q. Okay.

09:22:16 6 A. Unless they'd be separated and

09:22:18 7 they were good skids, and then they would go to

09:22:21 8 Skid Row.

09:22:22 9 Q. Okay. So who made the

09:22:25 10 determination whether the skids went to the

09:22:27 11 incinerator or to Skid Row?

09:22:29 12 A. The person picking up the skid and

09:22:32 13 inspecting it to see if it was all together and

09:22:35 14 well nailed down. At first -- yeah, yeah,

09:22:42 15 yeah, I'm sorry.

09:22:43 16 Q. So these skids and pallets came in

09:22:46 17 maybe a couple times per week, is that correct?

09:22:48 18 A. Correct.

09:22:48 19 Q. Okay. And did those come in while

09:22:50 20 you were personally at the landfill?

09:22:54 21 A. I don't know.

09:23:00 22 Q. Okay. Then how do you know how

09:23:03 23 often they came in?

09:23:05 24 A. Because my cousin and I pretty

09:23:10 25 much knowed. We had a routine down and we

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09:23:12 1 expected, so we tried to keep areas open where

09:23:17 2 they could be put, because usually McCall's

09:23:21 3 skids weren't beat up like the other companies.

09:23:25 4 They were pretty good shape. So we'd put them

09:23:27 5 over where we knew that very few would go in

09:23:29 6 the incinerator, so --

09:23:30 7 Q. So usually McCall's skids went to

09:23:34 8 Skid Row, is that correct?

09:23:34 9 A. Correct.

09:23:35 10 Q. How about the pallets?

09:23:36 11 A. The pallets and skids are --

09:23:38 12 Q. The same thing?

09:23:38 13 A. Same thing, yeah.

09:23:40 14 Q. Okay. So when you say skids,

09:23:42 15 you're referring to skids and pallets?

09:23:43 16 A. Correct.

09:23:44 17 Q. So most of McCall's pallets went

09:23:46 18 to Skid Row, also?

09:23:48 19 A. Well, in my mind, I'm putting them

09:23:51 20 in the same category, so I'd say yes.

09:23:53 21 Q. How many times per month would the

09:24:00 22 pit catch on fire?

09:24:12 23 A. A couple times.

09:24:18 24 Q. A couple times per month?

09:24:18 25 A. Yeah.

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09:24:17 1 Q. Okay. And am I correct in

09:24:20 2 assuming that the pit mostly contained liquid

09:24:25 3 type waste?

09:24:26 4 A. Correct.

09:24:26 5 Q. Okay.

09:24:28 6 A. And the -- the metal cones that I

09:24:33 7 spoke about.

09:24:34 8 Q. Okay. Now, after 1968 when you

09:24:44 9 went to work for Doyle's and then Liberty

09:24:50 10 (sic), did you personally observe McCall waste

09:24:54 11 coming to the landfill?

09:24:56 12 A. I didn't understand. You said one

09:25:00 13 company and then I thought I heard -- say

09:25:02 14 another?

09:25:02 15 Q. I think you said that you

09:25:06 16 worked -- after you turned 16, you worked at

09:25:07 17 Doyle and you worked at -- is it Liberty?

09:25:10 18 A. No, Liberal Markets.

09:25:11 19 Q. Liberal Markets. Okay. During

09:25:12 20 that time, did you personally see McCall waste

09:25:15 21 come into the landfill?

09:25:18 22 A. Well, then, again, when I -- after

09:25:21 23 work or whatever, I would go there to help

09:25:24 24 separate the cardboard from the paper, yeah, I

09:25:30 25 would see the remnants of what was left.

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09:25:34 1 Q. What did the cardboard waste look

09:25:37 2 like from McCall's?

09:25:39 3 A. Boxes broke down.

09:25:42 4 Q. Did they have the McCall's writing

09:25:48 5 on them or logo?

09:25:46 6 A. I don't know.

09:25:48 7 Q. So how do you know that cardboard

09:25:53 8 that you would see at the end of the day had

09:25:55 9 come from McCall's?

09:25:57 10 A. Because the packer would push

09:26:01 11 everything so tightly together, it was almost

09:26:04 12 taking a loaf of bread that was sliced, and

09:26:06 13 when they would drop it off onto the pad, it

09:26:11 14 would all be laying in an order that you knew

09:26:14 15 it was from McCall's because, you know, all the

09:26:19 16 paper would say McCall's in front of -- you

09:26:21 17 know, like a magazine, front of a magazine,

09:26:24 18 where it said McCall's, and there was various

09:26:27 19 other types of magazines that -- but I'm not

09:26:30 20 sure what the name of them were, but like Bend

09:26:35 21 an Ear (phonetic), or, you know -- but they

09:26:36 22 made other things for other companies, so --

09:26:37 23 Q. You testified yesterday that the

09:26:40 24 McCall's waste included breakfast and lunch

09:26:48 25 debris, is that correct?

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09:26:51 1 A. Yeah, but that wasn't so often,  
 09:26:54 2 but it -- we didn't like it. It wasn't  
 09:26:55 3 supposed to be there, so, you know. But  
 09:26:58 4 sometimes they'd throw like a bag of trash and  
 09:27:02 5 it got packed and it would be pretty gooey, you  
 09:27:04 6 know, from people's lunches and stuff, so it --  
 09:27:07 7 it was in there.  
 09:27:08 8 Q. Okay. And what happened to that  
 09:27:10 9 waste?  
 09:27:11 10 A. It went down to the third pier for  
 09:27:11 11 bury.  
 09:27:12 12 Q. Okay. And you indicated that  
 09:27:13 13 there was also ink cartridges that came from  
 09:27:19 14 McCall's, is that correct?  
 09:27:30 15 A. Correct.  
 09:27:31 16 Q. Were those ink cartridges in the  
 09:27:36 17 compactor?  
 09:27:39 18 A. Yeah.  
 09:27:39 19 Q. What color was the ink?  
 09:27:48 20 A. Various, but mostly yellow, I  
 09:27:51 21 believe.  
 09:27:51 22 Q. In a given Dumpster delivery, how  
 09:28:00 23 many ink cartridges would be in it?  
 09:28:04 24 A. It would vary. Sometimes there  
 09:28:07 25 would be none and sometimes there would be a

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09:28:08 1 few and then sometimes there would be a lot of  
 09:28:11 2 them, you know, it varied.  
 09:28:12 3 Q. How much is a lot?  
 09:28:16 4 A. Twenty, 30 cartridges maybe.  
 09:28:19 5 Q. And these were basically caulking  
 09:28:21 6 tubes, is that correct, similar to caulking  
 09:28:24 7 tubes?  
 09:28:34 8 A. Yes. Yes.  
 09:28:25 9 Q. Okay. And when you would get to  
 09:28:36 10 work in the afternoon after school, were those  
 09:28:40 11 ink cartridges still located among the paper  
 09:28:44 12 and the cardboard?  
 09:28:47 13 A. Unless they got most of it done,  
 09:28:52 14 it would be all over the place, and we kind of  
 09:28:55 15 hated it because if -- if the tractor rolled  
 09:28:58 16 over, it would spread everywhere.  
 09:29:01 17 So you could tell, because it  
 09:29:02 18 would be all over the pad, so --  
 09:29:04 19 Q. And if it was already done by the  
 09:29:06 20 time you got there after school, who would have  
 09:29:11 21 taken care of that?  
 09:29:11 22 A. If it wasn't David, my cousin,  
 09:29:16 23 then it might have been two -- four of the  
 09:29:21 24 gentlemen that were working the trash trucks  
 09:29:24 25 that worked for Larry Brandon.

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09:29:24 1 Q. And you don't recall their names  
 09:29:29 2 at all?  
 09:29:29 3 A. No.  
 09:29:31 4 Q. You said there were four of them.  
 09:29:31 5 Did four come every time in a truck when a load  
 09:29:37 6 came in from McCall's?  
 09:29:38 7 A. Well, two worked the cardboard  
 09:29:40 8 trash truck and then two -- they did -- the  
 09:29:42 9 two -- the paper guys didn't come until later  
 09:29:44 10 after Larry Brandon had opened up Dayton  
 09:29:51 11 Fiber.  
 09:29:51 12 So for the first part of the  
 09:29:55 13 operation, there was just two guys, and then  
 09:29:57 14 after he started Dayton Fiber, there were four,  
 09:29:59 15 but they weren't there all the time.  
 09:30:04 16 Q. Yesterday you testified that the  
 09:30:04 17 ink went into barrels and then to the pit. Do  
 09:30:06 18 you recall that?  
 09:30:12 19 A. Yes, um-hum.  
 09:30:12 20 Q. Who put the ink in the barrels?  
 09:30:16 21 A. All six of us.  
 09:30:17 22 Q. And how would you do that? Would  
 09:30:21 23 you cut the cartridges open?  
 09:30:23 24 A. No, no, we'd put on a pair of  
 09:30:25 25 gloves and pick them up because they were all

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09:30:28 1 mushy, and we'd dropped them -- cartridge --  
 09:30:33 2 paper, cartridge and all and the ink.  
 09:30:34 3 Q. Oh, so the cartridges themselves  
 09:30:36 4 went into this barrel?  
 09:30:37 5 A. Yeah, um-hum.  
 09:30:38 6 Q. Okay. So you didn't --  
 09:30:41 7 A. No. I'm sorry.  
 09:30:41 8 Q. Go ahead.  
 09:30:41 9 A. I was just going to say there was  
 09:30:43 10 no way -- unless you scooped it out with your  
 09:30:48 11 finger, there was no way to separate the two.  
 09:30:47 12 So --  
 09:30:48 13 Q. Okay. So cartridge and all would  
 09:30:51 14 go to the pit and get burnt?  
 09:30:53 15 A. No, it would go to pier three  
 09:30:55 16 where it would be buried.  
 09:30:56 17 Q. Okay. So yesterday you testified  
 09:31:04 18 that the ink went into barrels and then to the  
 09:31:06 19 pit. Is that a burn pit or a burial pit?  
 09:31:13 20 A. Well, I might have made it sound  
 09:31:17 21 like -- the third pier was the pier that would  
 09:31:21 22 cover --  
 09:31:22 23 Q. Excuse me a minute. Do you mean  
 09:31:24 24 tier or pier?  
 09:31:25 25 A. Tier. I'm sorry.

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09/31/26 1 Q. Tier. Okay. Thank you.

09/31/28 2 A. The third tier was eventually --

09/31/30 3 because it stood maybe 12 feet higher than the

09/31/32 4 pit, and it just kept pushing over the pit, and

09/31/37 5 eventually it would have been -- the pit would

09/31/39 6 have been totally covered. So it was that

09/31/42 7 stuff that would lay on top of the pit.

09/31/45 8 So the two, sometimes to me, was

09/31/49 9 the same thing, so --

09/31/50 10 Q. Okay. So I may have misunderstood

09/31/52 11 you yesterday. Did any of the ink from

09/31/56 12 McCall's get burnt?

09/31/57 13 A. No.

09/31/57 14 Q. Okay.

09/31/58 15 A. No. Because I thought I said we

09/32/05 16 weren't allowed, other than skids, paper,

09/32/08 17 cardboards, any other debris even knobs off of

09/32/11 18 a door, wasn't allowed into the fire pit,

09/32/15 19 because remember I had said I had to take

09/32/17 20 hinges off, so --

09/32/19 21 Q. So when you testified yesterday

09/32/22 22 about liquids, from any customer of the

09/32/29 23 landfill, did any of those liquids ever get

09/32/33 24 burnt?

09/32/33 25 A. No. No.

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09/32/32 1 Q. Okay. When was the first time you

09/32/41 2 recall seeing waste come to the landfill from

09/32/44 3 McCall's?

09/32/48 4 A. Well, it probably wasn't till the

09/32/53 5 winter I worked for Larry Brandon and removed

09/32/58 6 snow from McCall's and actually worked at

09/33/02 7 McCall's.

09/33/03 8 See, Larry Brandon, his employees

09/33/06 9 were allowed to come and go, they were sort of

09/33/09 10 like employees of McCall's, but they were

09/33/13 11 subcontractors, I guess you'd say.

09/33/15 12 And so it wasn't till then that I

09/33/18 13 realized and paid more attention to McCall's,

09/33/21 14 but before, I just thought they were -- you

09/33/23 15 know, other than seeing McCall's letterhead on

09/33/28 16 magazines and stuff, I really didn't pay much

09/33/30 17 attention, but after that, I did.

09/33/32 18 Q. Okay. That's what I'm asking.

09/33/34 19 When was the first time that you recall seeing

09/33/38 20 waste from McCall's at the landfill?

09/33/40 21 A. So you want a date?

09/33/42 22 Q. As best as you can define it.

09/33/46 23 A. '68.

09/33/48 24 Q. Okay. What year did you work for

09/33/51 25 Larry Brandon at McCall's?

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09/33/58 1 A. That was '68.

09/33/58 2 Q. So prior to '68, you don't recall

09/33/58 3 seeing any waste from McCall's at the landfill?

09/34/02 4 A. Yes, I did.

09/34/05 5 Q. I asked you, when is the first

09/34/07 6 time you recall seeing waste at the landfill

09/34/12 7 from McCall's?

09/34/14 8 A. Well, like I just said a few

09/34/17 9 minutes ago, if I saw a letterhead and it said

09/34/20 10 McCall's, but it really didn't stick with me

09/34/23 11 real well until after I worked there, because

09/34/24 12 I -- oh, I used to work here -- or I worked

09/34/26 13 there, you know, so -- but seeing magazines and

09/34/28 14 stuff, just sometimes a full magazine would get

09/34/30 15 in there and we'd look at it, so, you know.

09/34/32 16 Q. When was the first time?

09/34/35 17 A. A year would have been '63 maybe.

09/34/46 18 Q. When was the last time you

09/34/49 19 personally saw waste from McCall's come to the

09/34/54 20 landfill?

09/35/02 21 A. Early '70s, maybe '72.

09/35/15 22 Q. What was the name of Larry

09/35/18 23 Brandon's company that did work at McCall's?

09/35/24 24 A. Container Service.

09/35/27 25 Q. So besides providing waste removal

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09/35/33 1 from McCall's, Container Service did other work

09/35/37 2 at McCall's?

09/35/39 3 A. No. I mean, they -- their team

09/35/44 4 that was hired to be there worked the

09/35/50 5 compactor, if it broke down, would be able to

09/35/53 6 service it and would take the skids and put

09/35/57 7 them on the pickup truck, so -- but I did say,

09/36/01 8 they can come and go as they please, you know,

09/36/03 9 they didn't actually, you know, go to other

09/36/06 10 buildings, I don't believe.

09/36/07 11 Q. Were they full-time at McCall's?

09/36/10 12 A. Yes.

09/36/11 13 Q. But they were not McCall's

09/36/12 14 employees --

09/36/13 15 A. No.

09/36/14 16 Q. -- they were Container Service

09/36/18 17 employees?

09/36/19 18 A. Right.

09/36/19 19 Q. Were you a Container Service

09/36/17 20 employee when you worked at McCall's?

09/36/19 21 A. Yes.

09/36/22 22 MR. COUGHLIN: Did someone join or

09/36/25 23 drop off?

09/36/26 24 MR. ANDREASEN: Did someone join the

09/36/27 25 call that didn't previously identify themselves?

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09:36:43 1 Thank you.

09:36:43 2 BY MR. ANDREASEN:

09:36:57 3 Q. When the burn pit stopped

09:37:00 4 operating -- I think you testified yesterday

09:37:04 5 there was some point in time where you could no

09:37:06 6 longer use the burn pit, is that correct?

09:37:08 7 A. Well, it was very hard, but we

09:37:11 8 used it till the concrete one was fully in

09:37:15 9 operation, so, you know, business went on as

09:37:18 10 usual, but there wasn't a shutdown time.

09:37:24 11 Q. So during the entire period of

09:37:26 12 time that you worked at the landfill, there was

09:37:30 13 waste being burned or incinerated in some form

09:37:33 14 or another?

09:37:34 15 A. Correct.

09:37:34 16 Q. Yesterday you identified customers

09:38:00 17 that had keys to the gate lock at the landfill.

09:38:05 18 A. Correct.

09:38:06 19 Q. One of the customers that you

09:38:08 20 identified was McCall's.

09:38:14 21 A. Correct.

09:38:15 22 Q. Why did McCall's need a key to the

09:38:18 23 landfill if Container Service collected their

09:38:22 24 waste?

09:38:23 25 A. It was prior to when Larry had

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09:38:28 1 hired full-time employees at McCall's, and I

09:38:33 2 don't recall the years. It would have been

09:38:36 3 early '60s when -- before Dumpsters came into

09:38:42 4 existence that they carried the key.

09:38:48 5 And when I say McCall's, I just --

09:38:50 6 I don't know who the drivers were. I don't

09:38:52 7 know if they hired independent, but when I say

09:38:55 8 McCall's, I just say the debris that was left

09:38:59 9 that day was McCall's material.

09:39:05 10 Q. And that material would have been

09:39:06 11 brought in during the day?

09:39:08 12 A. Yes, um-hum.

09:39:08 13 Q. So why did -- wasn't the landfill

09:39:11 14 open?

09:39:17 15 A. No. I'm not sure about that.

09:39:28 16 It -- it might have been a Saturday or -- I'm

09:39:42 17 not sure.

09:39:43 18 Q. Are you sure that someone, an

09:39:44 19 employee of McCall's, had a key to that lock?

09:39:49 20 A. I'm not sure.

09:39:52 21 Q. It could have been an employee of

09:39:56 22 Container Service?

09:39:56 23 A. No, because that particular early

09:39:59 24 time, Container Service really didn't exist,

09:40:03 25 the earlier years.

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09:40:04 1 Q. Tell me what you mean by early

09:40:07 2 time or earlier years. What time period are

09:40:11 3 you talking about?

09:40:13 4 A. '60 to maybe '64, something like

09:40:15 5 that.

09:40:16 6 Q. Now, you say that the first time

09:40:18 7 you're aware of McCall's waste coming to the

09:40:20 8 landfill was 1963.

09:40:23 9 A. No, I thought I said '60, but it

09:40:26 10 could have been '63.

09:40:27 11 Q. Was -- the first time that you

09:40:28 12 recall seeing McCall waste being brought to the

09:40:35 13 landfill, was it brought by Container Service?

09:40:39 14 A. Not the first time, no.

09:40:40 15 Q. Who was it brought by?

09:40:42 16 A. Like I said, that's where I'm kind

09:40:44 17 of having a hard time remembering, because I

09:40:48 18 don't -- other than seeing McCall's, who had a

09:40:53 19 key when it was dropped off, I really haven't

09:40:58 20 thought that much about it until now, so --

09:41:04 21 Q. So prior to the time that

09:41:08 22 Container Service brought waste from McCall's

09:41:12 23 to the landfill, you don't know how that waste

09:41:15 24 got there?

09:41:15 25 A. No.

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09:41:15 1 Q. When did Container Service begin

09:41:20 2 bringing McCall waste to the landfill?

09:41:22 3 A. Like I said, I think around '64.

09:41:30 4 Q. And did Container -- you testified

09:41:37 5 earlier today that the last time you recall

09:41:40 6 seeing waste from McCall's brought to the

09:41:43 7 landfill was in the early 1970s and possibly

09:41:48 8 1972, correct?

09:41:49 9 A. Um-hum.

09:41:49 10 Q. At that point in time, was the

09:41:55 11 waste brought into the landfill by Container

09:41:56 12 Service?

09:41:56 13 A. I'm sorry, I didn't follow.

09:41:58 14 Q. In the early '70s when McCall's

09:42:02 15 waste was brought to the landfill, was it

09:42:04 16 brought there by Container Service?

09:42:05 17 A. Yes.

09:42:06 18 Q. Now, you testified that these keys

09:42:16 19 to the gate lock also opened the lock at

09:42:20 20 Powell?

09:42:21 21 A. Yes.

09:42:21 22 Q. Okay. So any of the customers

09:42:27 23 that you identified yesterday that had keys to

09:42:32 24 the gate lock at the South Dayton landfill,

09:42:39 25 could have used those keys to open the gate

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09:42:42 1 lock at Powell Landfill, is that correct?

09:42:44 2 A. Correct.

09:42:52 3 Q. You testified yesterday that the

09:42:58 4 companies that had the keys, other than

09:43:08 5 McCall's, which you say now you're not sure

09:43:00 6 about, you testified that the companies that

09:43:04 7 you recall having keys were General Refuse,

09:43:07 8 Container Service, GM and Frigidaire. Are

09:43:11 9 there any other customers that you recall today

09:43:14 10 that had keys to the lock?

09:43:17 11 A. Not to my recollection, no.

09:43:18 12 Q. Okay. Did General Refuse ever

09:43:21 13 take waste to the Powell Landfill.

09:43:26 14 A. General Refuse? Yes.

09:43:37 15 Q. Is it Refuse or Refuse with an

09:43:31 16 S E?

09:43:34 17 A. Refuse.

09:43:34 18 Q. Can you spell it?

09:43:36 19 A. No. Well, R E F -- I think it

09:43:42 20 ended with an E. I'm not sure.

09:43:47 21 Q. Okay. So, I'm sorry, I forgot

09:43:48 22 your answer. Did General Refuse ever take

09:43:52 23 waste to the Powell Landfill?

09:43:53 24 A. Yes. Yes.

09:43:54 25 Q. Did Container Service ever take

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09:43:56 1 waste to the Powell Landfill?

09:43:59 2 A. Yes.

09:43:59 3 Q. Did GM ever take waste to the

09:44:03 4 Powell Landfill?

09:44:04 5 A. No.

09:44:05 6 Q. Did Frigidaire ever take waste to

09:44:07 7 the Powell Landfill?

09:44:10 8 A. Not to my knowledge.

09:44:13 9 MR. ROMINE: I'm going to object on

09:44:14 10 the grounds that this wasn't covered in direct and

09:44:16 11 it's a violation of the judge's order not to go

09:44:19 12 over material that was gone over before.

09:44:20 13 MR. ANDREASEN: I disagree.

09:44:29 14 BY MR. ANDREASEN:

09:44:29 15 Q. Did Container Service ever take

09:44:33 16 waste from McCall's to the Powell Landfill?

09:44:36 17 MR. ROMINE: Same objection.

09:44:38 18 THE WITNESS: I'm sorry?

09:44:40 19 BY MR. ANDREASEN:

09:44:40 20 Q. Did Container Service ever take

09:44:42 21 waste from McCall's to the Powell Landfill?

09:44:45 22 MR. ROMINE: Same objection.

09:44:48 23 THE WITNESS: Not to my recollection.

09:44:48 24 BY MR. ANDREASEN:

09:44:49 25 Q. And how would you know that they

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09:44:51 1 didn't?

09:44:52 2 MR. ROMINE: Same objection.

09:44:54 3 THE WITNESS: I wasn't there till

09:44:54 4 after I started helping Larry over at Powell Road,

09:45:00 5 so, you know, I don't know.

09:45:02 6 BY MR. ANDREASEN:

09:45:03 7 Q. So you don't know whether or not

09:45:04 8 Container Service ever took McCall waste to the

09:45:07 9 Powell Landfill?

09:45:08 10 MR. ROMINE: Same objection.

09:45:10 11 THE WITNESS: I don't know.

09:45:11 12 BY MR. ANDREASEN:

09:45:11 13 Q. Okay. Would you take a look at

09:45:22 14 defendant --

09:45:22 15 MR. ROMINE: I'm not your lawyer,

09:45:22 16 so --

09:45:22 17 THE WITNESS: Huh?

09:45:24 18 MR. ROMINE: I can't give you advice,

09:45:26 19 I'm not your lawyer.

09:45:26 20 THE WITNESS: I'm not feeling good.

09:45:26 21 MR. ROMINE: You're not feeling good?

09:45:27 22 THE WITNESS: No. I'm having a hard

09:45:28 23 time --

09:45:29 24 MR. ROMINE: Take a break.

09:45:31 25 THE WITNESS: -- thinking.

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09:45:31 1 MR. ROMINE: Yeah, take a break.

09:45:31 2 MR. ANDREASEN: Okay.

09:45:31 3 MR. COUGHLIN: I'm sorry, did you get

09:45:33 4 that on the record? What did you just say, sir?

09:45:37 5 THE WITNESS: I'm not feeling well

09:45:37 6 and I need to take a small break.

09:45:37 7 MR. COUGHLIN: Did you say something

09:45:41 8 about you're having a hard time thinking?

09:45:41 9 THE WITNESS: Right now, yeah.

09:45:43 10 MR. COUGHLIN: Are you going to be

09:45:43 11 able to continue today?

09:45:45 12 THE WITNESS: I'm going to try. So

09:45:45 13 can we take a break?

09:45:48 14 MR. ANDREASEN: Sure. Sure, whenever

09:45:57 15 you need to.

09:46:57 16 (Pause in proceedings.)

09:46:32 17 MR. ANDREASEN: We're back on the

09:47:11 18 record.

09:47:13 19 BY MR. ANDREASEN:

09:47:13 20 Q. Mr. Grillot, before we took a

09:47:13 21 break, you indicated that you weren't feeling

09:47:18 22 well and having trouble thinking, is that

09:47:18 23 correct?

09:47:18 24 A. Yes.

09:47:20 25 Q. Are you feeling better now, worse

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09:57:21 1 or the same as before the break?

09:57:22 2 A. Better.

09:57:24 3 Q. Okay. Was there any point in time

09:57:27 4 yesterday when you didn't feel well and had

09:57:31 5 trouble thinking during your testimony?

09:57:33 6 A. No, I had a good day yesterday.

09:57:35 7 Q. Okay. I want to show you again

09:57:45 8 what's been marked as Defendants' Exhibit

09:57:49 9 Number 2, the waste receipts. We were talking

09:57:54 10 about the handwriting on the middle two tickets

09:58:03 11 that says DPL?

09:58:05 12 A. DP&L, yeah.

09:58:06 13 Q. Okay. Besides Container Service,

09:58:15 14 what other waste haulers in the Dayton area

09:58:23 15 brought waste to the South Dayton Landfill?

09:58:28 16 MR. ROMINE: Same objection.

09:58:28 17 THE WITNESS: Other than indicating

09:58:30 18 to you -- I thought we went over this yesterday,

09:58:34 19 so you want me to make the list again, is that

09:58:37 20 what you're saying?

09:58:37 21 BY MR. ANDREASEN:

09:58:38 22 Q. Just the waste haulers. Did you

09:58:43 23 identify waste haulers or customers yesterday?

09:58:43 24 A. Okay. Waste haulers --

09:58:46 25 MR. ROMINE: Same objection.

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09:58:47 1 MR. ANDREASEN: David, can we just

09:58:48 2 have a standing objection?

09:59:51 3 MR. ROMINE: Yes.

09:59:53 4 MR. ANDREASEN: Okay.

09:59:53 5 THE WITNESS: I don't know at this

09:59:54 6 moment.

09:59:54 7 BY MR. ANDREASEN:

09:59:58 8 Q. Okay. If Container Service

09:59:00 9 brought in a load of waste from a customer,

09:59:07 10 would Container Service's name be placed on

09:59:11 11 that waste ticket or the customer's name?

09:59:14 12 A. It would be the customer's name.

09:59:21 13 Q. And the landfill would know what

09:59:30 14 customer's name to put on the ticket based upon

09:59:33 15 being told by the waste hauler where the waste

09:59:36 16 came from?

09:59:37 17 A. Correct.

09:59:41 18 Q. I'm going to hand you what's been

09:59:43 19 marked as Defendants' Exhibit Number 1, and

09:59:47 20 that's the map from yesterday that identifies

10:00:01 21 various landfills in the Dayton area.

10:00:03 22 A. Right.

10:00:04 23 Q. Do you know if waste from McCall's

10:00:12 24 went to any of the landfills indicated on that

10:00:19 25 map other than South Dayton Landfill?

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10:00:25 1 A. Over what time period?

10:00:26 2 Q. During the time period that waste

10:00:29 3 was coming to the landfill at South Dayton from

10:00:33 4 McCall's.

10:00:34 5 A. From -- from Larry Brandon's

10:00:37 6 operation or from the other -- early days when

10:00:43 7 I said I didn't know who had hauled waste from

10:00:46 8 McCall's?

10:00:48 9 Q. From the -- from the earliest time

10:00:48 10 that you recall -- recall waste from McCall's

10:00:53 11 coming to South Dayton Landfill to the last

10:00:56 12 time you recall waste from McCall's coming to

10:01:00 13 the South Dayton Landfill, do you know if

10:01:03 14 McCall's waste, during that period of time,

10:01:05 15 went to any of the other landfills indicated on

10:01:09 16 Exhibit 1?

10:01:09 17 A. No.

10:01:10 18 Q. You don't -- no, you don't know?

10:01:12 19 A. I don't know.

10:01:13 20 Q. Okay. The key to the lock on the

10:01:23 21 gate at South Dayton that also opened the lock

10:01:28 22 on the gate at Powell Landfill, did that key

10:01:34 23 open gate locks to any other landfills in the

10:01:39 24 Dayton area?

10:01:40 25 A. No, not -- not to my knowledge.

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10:01:42 1 Q. And if you would, please, tell me

10:01:51 2 again, why was this -- why did the same key

10:01:54 3 open the locks at Powell and South Dayton?

10:01:58 4 MR. ROMINE: Asked and answered.

10:01:58 5 THE WITNESS: Because Larry Brandon

10:02:01 6 wanted to make sure no load was sitting out front

10:02:04 7 to get -- of any dump waiting to be dumped. He

10:02:08 8 wanted a steady stream, so also the key would --

10:02:11 9 the key fit various locations of like Larry

10:02:17 10 Brandon's other facilities.

10:02:24 11 BY MR. ANDREASEN:

10:02:24 12 Q. So the same key provided access to

10:02:30 13 the South Dayton Landfill, the Powell Landfill

10:02:37 14 and other facilities owned or operated by Mr.

10:02:41 15 Brandon?

10:02:41 16 A. Correct.

10:02:42 17 Q. Do you know what those other

10:02:44 18 facilities were?

10:02:47 19 A. The gas pumps, the diesel pumps,

10:02:55 20 some of the equipment was chained and locked

10:02:57 21 with a 2246 key. Some other Dumpsters that --

10:03:05 22 I don't know what were in them, but -- you

10:03:08 23 know, so at his site where he serviced the dump

10:03:14 24 trucks and so on and so forth, there was a

10:03:16 25 service building.

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10/03/17 1 Q. So all those locks that you just  
 10/03/23 2 mentioned, were those all located at Larry  
 10/03/28 3 Brandon's facility?  
 10/03/29 4 A. Correct.  
 10/03/30 5 MR. COUGHLIN: Excuse me, did someone  
 10/03/34 6 join again?  
 7 MR. ANDREASEN: Did someone join the  
 8 call?  
 9 (Thereupon, the court reporter  
 10 interrupted the proceedings.)  
 11 (Record read.)  
 12 BY MR. ANDREASEN:  
 10/04/07 13 Q. And where was Larry Brandon's  
 10/04/09 14 facility located?  
 10/04/12 15 A. They changed the name of the  
 10/04/15 16 streets so much down there. It was about a  
 10/04/18 17 quarter mile from the South Dayton Dump.  
 10/04/21 18 Q. Which direction?  
 10/04/23 19 A. Going southeast. If it's not  
 10/04/26 20 called Sandridge, it would be Springboro Pike,  
 10/04/35 21 South Springboro Pike -- or North Springboro  
 10/04/37 22 Pike.  
 10/04/37 23 Q. And did that key unlock any other  
 10/04/41 24 locks besides the locks you have just  
 10/04/43 25 mentioned, the two landfills and items at Larry

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10/04/50 1 Brandon's facility?  
 10/04/50 2 A. I don't know at this time, no.  
 10/05/25 3 MR. ANDREASEN: That's all I have.  
 10/05/26 4 Thank you, sir.  
 10/05/27 5 THE WITNESS: Thank you.  
 10/06/03 6 CROSS-EXAMINATION  
 10/06/12 7 BY MR. COUGHLIN:  
 10/06/13 8 Q. Good morning, sir. I'm Bill  
 10/06/13 9 Coughlin.  
 10/06/13 10 A. Hi, Bill.  
 10/06/16 11 Q. And this is without prejudice to  
 10/06/18 12 any of our objections and motions as of  
 10/06/21 13 yesterday, but that's legalese that doesn't  
 10/06/24 14 relate to you, sir.  
 10/06/25 15 A. Pardon me?  
 10/06/28 16 Q. That's something that doesn't  
 10/06/27 17 relate for purposes of the questions I'm going  
 10/06/30 18 to ask to you.  
 10/06/31 19 A. Okay.  
 10/06/31 20 Q. You're feeling well enough to  
 10/06/34 21 testify now?  
 10/06/35 22 A. Yeah, much better. Thank you.  
 10/06/36 23 Q. Able to think --  
 10/06/37 24 A. Yeah.  
 10/06/37 25 Q. -- about your answers and give

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10/06/39 1 them?  
 10/06/39 2 A. Yes, sir.  
 10/06/39 3 Q. Sir, now you recall in your  
 10/06/43 4 deposition you gave on April 24, 2012, that you  
 10/06/47 5 did not know how DAP stuff, as you called it,  
 10/06/52 6 got to the site, correct?  
 10/06/54 7 MR. ROMINE: Objection. Covers old  
 10/06/57 8 ground that the judge ordered not to be covered.  
 10/07/01 9 THE WITNESS: I'm sorry, I --  
 10/07/02 10 MR. COUGHLIN: Well, let me -- let me  
 10/07/04 11 address that. Let's have --  
 10/07/06 12 THE WITNESS: No. May I say  
 10/07/06 13 something?  
 10/07/07 14 MR. COUGHLIN: No. Let's clear up  
 10/07/08 15 the objection first --  
 10/07/08 16 THE WITNESS: Okay.  
 10/07/09 17 MR. COUGHLIN: Because I think we  
 10/07/10 18 should have a continuing objection on that, if  
 10/07/11 19 that's okay with you, David?  
 10/07/14 20 MR. ROMINE: No.  
 10/07/15 21 MR. COUGHLIN: Okay. Well, I think  
 10/07/16 22 you should, because you'll have to agree, I think,  
 10/07/20 23 that this is the first time DAP, or anybody acting  
 10/07/23 24 on behalf of DAP, has had any opportunity  
 10/07/24 25 whatsoever to examine this witness concerning any

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10/07/21 1 aspect of his testimony. That's true, is it not,  
 10/07/23 2 sir?  
 10/07/24 3 MR. ROMINE: Ask your questions.  
 10/07/26 4 MR. COUGHLIN: Do you know of any  
 10/07/26 5 other opportunity?  
 10/07/28 6 MR. ROMINE: Ask your questions.  
 10/07/28 7 MR. COUGHLIN: Well, that's why I'm  
 10/07/29 8 saying it's not appropriate for you to say that  
 10/07/42 9 you need to object to every question I'm going to  
 10/07/46 10 ask this witness, and as you saw from before when  
 10/07/49 11 you did that, it then prevented him from  
 10/07/52 12 testifying in answer to Mr. Andreasen's questions,  
 10/07/55 13 and I don't want that to happen now, do you, sir?  
 10/07/58 14 MR. ROMINE: Ask your questions.  
 10/08/00 15 MR. COUGHLIN: So you don't want to  
 10/08/01 16 answer anything I'm asking about trying to resolve  
 10/08/04 17 your objections on the record?  
 10/08/05 18 MR. ROMINE: Ask your questions.  
 10/08/07 19 MR. COUGHLIN: Yes, sir.  
 10/08/07 20 MR. HAUGHEY: This is Steve Haughey.  
 10/08/09 21 I would like to add to the discussion that I'm a  
 10/08/12 22 bit surprised, David, at your position today,  
 10/08/14 23 because yesterday when I was doing some of my  
 10/08/19 24 cross-exam before we had to make changes for  
 10/08/23 25 purposes of people leaving, you did agree to enter

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10:08:27 1 a continuing objection to my questions relating to  
 10:08:31 2 the testimony that Mr. Grillot provided in 2002  
 10:08:37 3 (sic), and I said okay and that seemed to work and  
 10:08:40 4 stop the -- you know, you having to interject so  
 10:08:43 5 many objections, so why are you changing your  
 10:08:45 6 position today?

10:08:46 7 MR. ROMINE: This is all time that  
 10:08:47 8 could be spent for the questioner to ask the  
 10:08:51 9 witness questions. I'm going to say, ask your  
 10:08:55 10 questions, I'll object when I think it's  
 10:08:56 11 appropriate. When it's not appropriate, I won't  
 10:08:58 12 object.

10:08:59 13 BY MR. COUGHLIN:

10:08:59 14 Q. Mr. Grillot, you recall from your  
 10:09:07 15 prior deposition that you testified that you  
 10:09:10 16 did not know how any of, what you call the DAP  
 10:09:14 17 stuff, got to the site, correct?

10:09:16 18 MR. ROMINE: Objection.  
 10:09:17 19 Mischaracterizes his former testimony. Go ahead.

10:09:19 20 THE WITNESS: Well --

10:09:19 21 BY MR. COUGHLIN:

10:09:20 22 Q. Sir, is that -- do I state that  
 10:09:23 23 correctly?

10:09:23 24 A. Well, first of all, you didn't  
 10:09:24 25 state who you represented. I hear DAP. Is

10:09:26 1 that who you represent?

10:09:27 2 Q. Well, does that affect your  
 10:09:28 3 answer?

10:09:29 4 A. No, but I'm just trying to make it  
 10:09:31 5 clear in my mind.

10:09:32 6 Q. Well, let me -- let me make it  
 10:09:34 7 clear.

10:09:34 8 A. Okay.

10:09:34 9 Q. I represent DAP Products Inc., no  
 10:09:37 10 comma.

10:09:37 11 A. All right. Good. Okay.

10:09:37 12 Q. It's true, is it not, sir, that  
 10:09:43 13 you testified in 2012 that you did not know how  
 10:09:48 14 stuff from DAP, as you called it, got to the  
 10:09:50 15 site, correct?

10:09:51 16 MR. ROMINE: Same objection.

10:09:53 17 THE WITNESS: I don't recall.

10:09:56 18 BY MR. COUGHLIN:

10:09:56 19 Q. You don't recall your testimony or  
 10:09:58 20 you don't recall how?

10:10:04 21 A. I don't recall at this moment,  
 10:10:07 22 because some of the --

10:10:08 23 Q. I didn't ask you why, sir.

10:10:08 24 A. Okay.

10:10:10 25 Q. Let me show you a copy of your

10:10:12 1 testimony --

10:10:12 2 A. Okay.

10:10:12 3 Q. -- from April 24, 2012.

10:10:15 4 A. Sure.

10:10:15 5 Q. And I'll represent to you and  
 10:10:17 6 counsel and to the Court, that this is all of  
 10:10:19 7 your testimony from that deposition relating to  
 10:10:21 8 DAP.

10:10:22 9 A. Okay. All right.

10:10:22 10 Q. And I'd ask you to turn to page  
 10:10:28 11 120, line three. Do you have that in front of  
 10:10:34 12 you?

10:10:36 13 A. I do now.

10:10:35 14 Q. And do you see where it says, how  
 10:10:41 15 did they get their stuff to your site? Answer  
 10:10:42 16 at line five, I don't know. Did I read that  
 10:10:45 17 correctly, sir?

10:10:47 18 A. Correct.

10:10:47 19 Q. Thank you. Would you hand that  
 10:10:49 20 back to me?

10:10:49 21 A. Um-hum.

10:10:50 22 Q. And as you testified yesterday, it  
 10:10:56 23 was your belief that DAP did not have a truck  
 10:10:59 24 of its own that came to the site, correct?

10:11:03 25 A. Correct, um-hum.

10:11:03 1 Q. Now, sir, you talked yesterday  
 10:11:12 2 about an unidentified driver, I think were your  
 10:11:16 3 words, telling you something about a glazing  
 10:11:19 4 window display at the DAP plant.

10:11:22 5 A. Yeah.

10:11:22 6 Q. Do you remember that testimony?

10:11:23 7 A. Yeah.

10:11:23 8 Q. Well, actually that was your  
 10:11:29 9 father who told you about that, right, not some  
 10:11:30 10 driver?

10:11:30 11 A. It could have been.

10:11:32 12 Q. Okay. And do you recall -- do you  
 10:11:35 13 recall exactly who that was?

10:11:38 14 A. That told me that?

10:11:39 15 Q. Yeah. Was it --

10:11:40 16 A. Since you mentioned it, I think it  
 10:11:42 17 was Dad that -- we drove by there, yeah.

10:11:43 18 Q. And, in fact, just to confirm  
 10:11:45 19 that, if you'd take a look at the same  
 10:11:47 20 testimony on a different page, and this would  
 10:11:49 21 be page 142.

10:11:56 22 A. 142?

10:11:57 23 Q. Yes, page 142 --

10:11:57 24 A. Okay.

10:12:00 25 Q. -- line fifteen.

10:12:00 1 A. Okay.

10:12:02 2 Q. It's your answer there that -- if

10:12:04 3 you'll follow along with me --

10:12:04 4 A. Um-hum.

10:12:08 5 Q. -- we went out to DAP because Dad

10:12:07 6 told me that DAP had -- they had displays of

10:12:09 7 windows that they would glaze to see how long

10:12:12 8 their product would last. Did I read that

10:12:14 9 correctly, sir?

10:12:14 10 A. Yes.

10:12:18 11 Q. Thank you. May I have that back?

10:12:17 12 A. Um-hum.

10:12:18 13 Q. Now, sir, you also talked

10:12:24 14 yesterday about a putty and aluminum and wood

10:12:30 15 crates and pallets, but you didn't mention any

10:12:32 16 of that in your 2012 testimony, did you?

10:12:38 17 A. No.

10:12:41 18 Q. And you also said something

10:12:43 19 yesterday about maybe there was stuff that came

10:12:48 20 from DAP one time a month. You didn't say

10:12:51 21 anything about that in your testimony in 2012,

10:12:53 22 did you?

10:12:54 23 A. No.

10:13:01 24 Q. Now, I think you mentioned

10:13:03 25 yesterday as well that there were times after

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10:13:04 1 your work at the landfill that you were

10:13:08 2 involved in various construction jobs, correct?

10:13:12 3 A. Correct.

10:13:13 4 MR. ROMINE: Objection.

10:13:14 5 Unnecessarily repeats testimony from yesterday and

10:13:18 6 from 2012.

10:13:18 7 BY MR. COUGHLIN:

10:13:18 8 Q. You with me, sir?

10:13:20 9 A. Correct.

10:13:20 10 Q. And do you recall you thought that

10:13:23 11 you used DAP products in various ways when you

10:13:28 12 were doing construction work, right?

10:13:29 13 A. Yeah.

10:13:29 14 Q. Now, you have no idea whether --

10:13:32 15 what you were using in construction had the

10:13:35 16 same formulations as what may have been DAP

10:13:38 17 products from a prior time, correct?

10:13:40 18 A. Correct, um-hum.

10:13:42 19 Q. And you also testified before that

10:13:44 20 you did not recall any particular emblem that

10:13:49 21 related to DAP, correct?

10:13:50 22 A. Correct.

10:13:51 23 Q. And that at no point in time did

10:13:59 24 you ever tour a DAP plant, did you?

10:14:00 25 A. No.

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10:14:20 1 Q. Sir, who was it you walked into

10:14:30 2 the office off the elevator with this morning,

10:14:34 3 kind of a tall man with -- looked like he had a

10:14:37 4 goatee maybe?

10:14:38 5 A. Off the elevator?

10:14:38 6 Q. When you came in this morning, who

10:14:42 7 were you accompanied by? He showed you to the

10:14:45 8 restroom.

10:14:47 9 A. Bill.

10:14:48 10 Q. Bill who?

10:14:50 11 A. Wilts, Walsh.

10:14:52 12 Q. Is that the investigator who works

10:14:54 13 with Mr. Silver?

10:14:54 14 A. Correct.

10:14:54 15 Q. Okay. And when did you meet with

10:14:57 16 him this morning?

10:15:00 17 A. Around 7:30.

10:15:01 18 Q. And where did you meet with him?

10:15:03 19 A. At Marriott motel.

10:15:04 20 Q. And what did you discuss with him?

10:15:11 21 A. At 7:30 or when you saw me off the

10:15:14 22 elevator?

10:15:14 23 Q. Well, let's start from 7:30 until

10:15:19 24 when you got off the elevator.

10:15:21 25 A. We discussed breakfast. Asked,

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10:15:28 1 you know, did I sleep well. Just various

10:15:30 2 things about the morning.

10:15:32 3 Q. Anything else?

10:15:34 4 A. Well, I told him I wasn't feeling

10:15:36 5 well. That I slept well, but that I was

10:15:40 6 feeling the pain in my chest again and --

10:15:42 7 Q. And did he -- how did he respond

10:15:43 8 to what you told him?

10:15:45 9 A. He just kind of laughed, because I

10:15:51 10 had had a steak a couple nights before and he

10:15:54 11 said meat was kind of a -- a bad thing for the

10:15:57 12 pancreas, you know, so we were just talking

10:16:00 13 about that, so --

10:16:00 14 Q. Did you have a steak with him the

10:16:02 15 couple nights before?

10:16:03 16 A. Yes.

10:16:03 17 Q. Anybody else join you for that

10:16:09 18 steak?

10:16:09 19 A. Yes.

10:16:09 20 Q. Who?

10:16:10 21 A. Be Dave.

10:16:13 22 Q. Dave, Mr. Romine?

10:16:15 23 A. And -- and the lady behind me.

10:16:18 24 Q. One of Mr. Romine's colleagues?

10:16:21 25 A. Yeah.

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10:16:21 1 Q. And who's present in the room?

10:16:24 2 A. Pardon me?

10:16:24 3 Q. The lawyer with him in the room?

10:16:26 4 MR. COUGHLIN: I'm sorry, ma'am, I

10:16:27 5 don't remember your name.

10:16:28 6 MS. MEYER: Jennifer Meyer.

10:16:29 7 BY MR. COUGHLIN:

10:16:28 8 Q. Jennifer?

10:16:29 9 A. It was Jennifer.

10:16:29 10 Q. And where did you eat?

10:16:31 11 A. Downstairs at -- the Marriott had

10:16:35 12 a -- like a dinner place.

10:16:39 13 Q. And did you discuss your

10:16:40 14 deposition at all then with them?

10:16:40 15 A. No.

10:16:44 16 Q. Did they say anything about your

10:16:46 17 deposition?

10:16:51 18 A. We -- we talked about what time to

10:16:53 19 meet in the morning. I think it was -- if it

10:17:03 20 wasn't snowing, is it going to snow in the

10:17:06 21 morning and we were just discussing how to get

10:17:07 22 here and so on and so forth, so --

10:17:09 23 Q. Did you talk about the South

10:17:11 24 Dayton Dump or any of its customers?

10:17:11 25 A. No.

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10:17:14 1 Q. How about with Mr. Walsh today?

10:17:18 2 A. No.

10:17:14 3 Q. Does Mr. Walsh, was he -- has he

10:17:18 4 been driving you locally over the last couple

10:17:18 5 days?

10:17:21 6 A. Correct, um-hum.

10:17:22 7 Q. Now, you mentioned the Marriott in

10:17:34 8 Dayton. Actually a couple hours after

10:17:37 9 yesterday's deposition adjourned, you and I

10:17:40 10 bumped into each other on the concierge's level

10:17:43 11 at that hotel, right?

10:17:44 12 A. Yes.

10:17:45 13 Q. And --

10:17:45 14 A. Now, what -- concierge --

10:17:49 15 concierge what?

10:17:49 16 Q. Concierge, the 6th floor --

10:17:50 17 A. Yes.

10:17:51 18 Q. -- where you need a special key to

10:17:52 19 get on the elevator to get you to that floor.

10:17:54 20 A. Um-hum.

10:17:56 21 Q. That's where you were staying?

10:17:56 22 A. Yeah.

10:17:58 23 Q. And I got a free frequent traveler

10:18:01 24 upgrade, did you?

10:18:02 25 A. I don't know what that means.

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10:18:03 1 Q. Did they provide you a room on

10:18:06 2 that floor at no extra charge?

10:18:07 3 A. I wouldn't know that.

10:18:09 4 Q. I paid one seventy-nine for my

10:18:12 5 room. What did your room cost?

10:18:14 6 A. No clue.

10:18:16 7 Q. Well, who's paying for your room?

10:18:18 8 A. Bill.

10:18:21 9 Q. And how did he pay for it?

10:18:23 10 A. I have no clue.

10:18:25 11 Q. Did he pay for dinner and the room

10:18:27 12 the night before?

10:18:29 13 A. Correct.

10:18:30 14 Q. Why were you staying at the

10:18:32 15 Marriott?

10:18:33 16 A. I don't know.

10:18:37 17 Q. Has he been arranging your

10:18:39 18 transportation while you were here at his cost?

10:18:43 19 In other words, you have not been paying him to

10:18:44 20 transport you in town?

10:18:45 21 A. No. No.

10:18:45 22 Q. I state that correctly?

10:18:46 23 A. Correct.

10:18:47 24 Q. Has he -- has Mr. Walsh, or

10:18:54 25 anybody acting with him, paid any other

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10:18:56 1 expenses on your behalf during this trip?

10:19:02 2 A. No.

10:19:03 3 Q. How about in 2012?

10:19:06 4 A. No.

10:19:07 5 Q. Altogether, what would you

10:19:10 6 estimate the expenses that have been paid for

10:19:14 7 by Mr. Walsh or his associates for you?

10:19:19 8 A. I don't know.

10:19:20 9 Q. Are we talking in the thousands of

10:19:23 10 dollars?

10:19:24 11 A. I don't know.

10:19:28 12 Q. And as it turns out, since we're

10:19:30 13 talking about the Marriott, we again bumped

10:19:42 14 into each other a couple hours later in the

10:19:45 15 concierge's lounge, right?

10:19:45 16 A. Um-hum.

10:19:46 17 Q. You have to answer audibly, sir.

10:19:48 18 A. Oh, yes.

10:19:49 19 Q. And at that point in time, you

10:19:51 20 were on the computer terminal doing Internet

10:19:55 21 searches, right?

10:19:55 22 A. Yeah.

10:19:56 23 Q. And you were entering information

10:19:59 24 into the keyboard and reading what was up on

10:20:01 25 the screen?

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10:20:01 1 A. Correct.

10:20:02 2 Q. And then at one point at least you

10:20:04 3 printed out what looked like a pretty long

10:20:06 4 document, a series of pages that you collected

10:20:08 5 and then went and read, right?

10:20:10 6 A. Yes.

10:20:11 7 Q. And I was at the terminal next to

10:20:15 8 you.

10:20:15 9 A. Correct.

10:20:16 10 Q. And if I recall correctly, your

10:20:20 11 search involved something, since you were

10:20:22 12 sitting next to me, relating to Guinness?

10:20:25 13 A. To what?

10:20:26 14 Q. Guinness, G U I N N E S S.

10:20:31 15 A. I don't --

10:20:31 16 Q. You don't recall doing any

10:20:34 17 research -- search concerning Guinness?

10:20:37 18 A. Just Google, you know.

10:20:39 19 Q. A Google search concerning

10:20:39 20 Guinness?

10:20:40 21 A. I don't know.

10:20:40 22 Q. You know how to use Google?

10:20:43 23 A. A little bit.

10:20:44 24 Q. What were you searching on the

10:20:47 25 computer last night?

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10:20:47 1 A. I've only been using a computer

10:20:50 2 now for about --

10:20:51 3 Q. I didn't ask you how long you were

10:20:52 4 using it, so I'll move to strike. I asked you

10:20:54 5 what were you searching last night?

10:20:57 6 MR. ROMINE: Objection. Relevance.

10:20:58 7 THE WITNESS: Reading material.

10:20:58 8 BY MR. COUGHLIN:

10:20:59 9 Q. Reading material concerning what?

10:21:00 10 A. Storage.

10:21:01 11 Q. Did anything relate to the South

10:21:04 12 Dayton Dump or its customers?

10:21:06 13 A. Oh, no.

10:21:06 14 Q. Or this lawsuit?

10:21:07 15 A. No.

10:21:07 16 Q. Where did you have dinner last

10:21:21 17 night?

10:21:23 18 A. In Dayton.

10:21:24 19 Q. With whom?

10:21:26 20 A. With the parties just spoken of,

10:21:29 21 which would be Mr. Walsh -- Welch -- Walsh and

10:21:34 22 the two people behind me.

10:21:35 23 Q. David and his colleague?

10:21:37 24 MR. COUGHLIN: And, ma'am, I'm sorry,

10:21:38 25 I'm just having trouble with your name.

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10:21:40 1 THE WITNESS: Me too.

10:21:41 2 BY MR. COUGHLIN:

10:21:43 3 Q. And where did you eat?

10:21:43 4 A. Pardon me?

10:21:43 5 Q. Where did you eat?

10:21:44 6 A. Old Hickory.

10:21:45 7 Q. What's that?

10:21:46 8 A. It's a barbecue/steakhouse on

10:21:50 9 Brown -- Brown Street. Warren or Brown.

10:21:51 10 Q. Who picked up the tab?

10:21:54 11 A. I don't know.

10:21:55 12 Q. How much was it?

10:21:57 13 A. I didn't even look at the menu. I

10:21:57 14 don't know.

10:21:59 15 Q. What was the tab from the night

10:22:00 16 before?

10:22:00 17 A. I don't know.

10:22:01 18 Q. What did you discuss at dinner

10:22:04 19 after your deposition?

10:22:05 20 A. Pardon me?

10:22:06 21 Q. What did you talk about at your

10:22:07 22 dinner after your deposition yesterday?

10:22:09 23 A. Mostly about my dog and my

10:22:19 24 girlfriend -- or my ex-girlfriend that I live

10:22:23 25 with. Just various -- we talked about the

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10:22:24 1 holidays coming up and stuff like that, so --

10:22:27 2 Q. Did you talk about your deposition

10:22:29 3 testimony at all?

10:22:30 4 A. No.

10:22:31 5 Q. Did you talk about the landfill?

10:22:32 6 A. No.

10:22:33 7 Q. Did you talk about any of its

10:22:35 8 customers?

10:22:39 9 A. No.

10:22:39 10 Q. Did you talk about any of the

10:22:39 11 lawyers?

10:22:40 12 A. Pardon me?

10:22:41 13 Q. Did you talk about any of the

10:22:42 14 lawyers?

10:22:44 15 A. No.

10:22:49 16 Q. Now, along the same lines, I

10:22:53 17 understood you to be saying during one of the

10:22:55 18 breaks in the deposition yesterday when you

10:22:57 19 were talking to Mr. Romine, that there was

10:22:59 20 going to be some kind of a charge associating

10:23:03 21 with changing airline reservations. Did that

10:23:04 22 relate to you?

10:23:08 23 A. No.

10:23:09 24 Q. Has anyone bought you -- Mr. Walsh

10:23:12 25 or others with respect to the landfill, bought

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10:23:14 1 you any airfare?  
 10:23:18 2 A. No.  
 10:23:18 3 Q. Now, you gave us your cell phone  
 10:23:24 4 number yesterday during your testimony.  
 10:23:25 5 A. Correct.  
 10:23:25 6 Q. It's true, is it not though, sir,  
 10:23:30 7 that you instructed the plaintiffs' lawyers  
 10:23:33 8 prior to yesterday's testimony not to give your  
 10:23:37 9 cell phone number to any of the lawyers  
 10:23:39 10 representing the defendants?  
 10:23:40 11 A. Could you rephrase the question,  
 10:23:41 12 please?  
 10:23:41 13 Q. Yes. Up until yesterday, hadn't  
 10:23:43 14 you told Mr. Romine and his colleagues that you  
 10:23:46 15 didn't want them to give your cell phone number  
 10:23:48 16 to any of the defendants or their lawyers.  
 10:23:48 17 correct?  
 10:23:51 18 A. I don't remember.  
 10:23:52 19 Q. Did you give any instructions  
 10:23:54 20 about you didn't want anybody contacting you  
 10:23:58 21 concerning the case --  
 10:23:58 22 A. No.  
 10:23:58 23 Q. -- other than them?  
 10:24:00 24 A. No.  
 10:24:01 25 Q. You did not do that?

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10:24:02 1 A. No.  
 10:24:02 2 Q. Now, in your testimony yesterday,  
 10:24:12 3 you mentioned at one point that you thought  
 10:24:16 4 you'd be the owner of the landfill, remember  
 10:24:18 5 that?  
 10:24:19 6 A. Oh, yeah.  
 10:24:18 7 Q. Who told you that?  
 10:24:22 8 A. My father, Uncle Alcine and Horace  
 10:24:28 9 Boesch.  
 10:24:28 10 Q. And that didn't happen, right?  
 10:24:32 11 A. Nope.  
 10:24:32 12 Q. And I sensed a little  
 10:24:35 13 disappointment or maybe even bitterness on your  
 10:24:37 14 part with respect to that, is that true?  
 10:24:38 15 A. Could be.  
 10:24:40 16 Q. And why is that?  
 10:24:41 17 A. I gave up a lot through my life  
 10:24:46 18 for that particular thing, so --  
 10:24:50 19 Q. Well, did they prevent you from  
 10:24:52 20 becoming the owner?  
 10:24:53 21 A. No.  
 10:24:53 22 Q. Did they refuse to grant you any  
 10:24:57 23 kind of ownership interest?  
 10:24:58 24 A. Did they grant me?  
 10:25:00 25 Q. Did they refuse to give you any

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10:25:03 1 kind of ownership in the landfill or the  
 10:25:03 2 business?  
 10:25:05 3 A. Oh, no. No. No.  
 10:25:05 4 Q. Why didn't you become the owner?  
 10:25:11 5 A. I wanted to be a carpenter.  
 10:25:17 6 Q. And you went on and pursued that  
 10:25:19 7 career?  
 10:25:19 8 A. Correct.  
 10:25:20 9 Q. Did you become, in fact, a union  
 10:25:23 10 carpenter or joiner?  
 10:25:24 11 A. Not a union, no.  
 10:25:26 12 Q. Did you go through any kind of  
 10:25:28 13 apprenticeship or training in that regard?  
 10:25:31 14 A. No.  
 10:25:32 15 Q. Kind of self taught?  
 10:25:33 16 A. Correct.  
 10:25:34 17 Q. At any point, including up to now,  
 10:25:46 18 did you have any ownership interest in the  
 10:25:49 19 landfill?  
 10:25:55 20 A. Just word of mouth possibly.  
 10:25:58 21 Q. And what do you mean by that, sir?  
 10:26:01 22 A. After my father passed away, my  
 10:26:03 23 stepmom talked to me about the situation.  
 10:26:09 24 Q. Did you have any ownership  
 10:26:12 25 interest in the business as opposed to the

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10:26:14 1 landfill?  
 10:26:14 2 A. No.  
 10:26:18 3 Q. You were an heir to your father's  
 10:26:19 4 estate, correct?  
 10:26:19 5 A. Correct.  
 10:26:20 6 Q. And the landfill passed to his  
 10:26:22 7 estate?  
 10:26:24 8 A. Pardon me?  
 10:26:25 9 Q. And the landfill passed to his  
 10:26:27 10 estate upon his death, correct?  
 10:26:30 11 A. To be -- be more specific, it was  
 10:26:35 12 his property, not the dump. The dump had  
 10:26:39 13 no -- well, how -- connection to my father.  
 10:26:46 14 Q. The real property upon which the  
 10:26:48 15 dump sat passed into your father's estate,  
 10:26:51 16 right?  
 10:26:52 17 A. Correct, and Horace Boesch.  
 10:26:54 18 Q. Okay. Thank you.  
 10:27:04 19 A. May I say something else?  
 10:27:05 20 Q. No.  
 10:27:07 21 A. Okay.  
 10:27:08 22 Q. Sir, you understand -- I'm going  
 10:27:26 23 to withdraw that. Has anybody made any  
 10:27:28 24 promises to you in exchange for your testimony?  
 10:27:33 25 A. No.

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10:27:33 1 Q. Either now or in 2012?

10:27:34 2 A. No.

10:27:35 3 Q. Anybody make any threats or

10:27:40 4 inducements to you concerning your testimony

10:27:42 5 now or before?

10:27:43 6 A. No.

10:27:43 7 Q. Did you feel under any duress by

10:27:47 8 anybody concerning what you should say in your

10:27:49 9 testimony?

10:27:49 10 A. No.

10:27:49 11 Q. Did you make any deals or

10:27:53 12 agreements with anybody about what your

10:27:55 13 testimony would or should be?

10:27:57 14 A. No.

10:27:57 15 Q. Did you ever receive any

10:28:01 16 instructions from anybody as to how you should

10:28:05 17 testify?

10:28:08 18 A. No.

10:28:08 19 Q. Did anybody ever tell you that you

10:28:09 20 should be sure to say something or not to say

10:28:11 21 something in particular during your

10:28:12 22 depositions?

10:28:13 23 A. No.

10:28:14 24 Q. Sir, now you understand that your

10:28:40 25 deposition is being taken now as opposed to

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10:28:43 1 some other point in this case because the

10:28:45 2 plaintiffs' lawyers have told the Court that

10:28:48 3 they are concerned that your health is so

10:28:52 4 fragile that your death may be imminent. Were

10:28:55 5 you aware of that?

10:28:55 6 A. I think I said that, yesterday.

10:29:07 7 Q. You did?

10:29:07 8 A. Yes.

10:29:08 9 Q. And I think you indicated that

10:29:08 10 your pancreatitis is responding to the

10:29:09 11 medications you're taking?

10:29:07 12 A. I believe so, other than today.

10:29:10 13 Q. I'm sorry, did you say other than

10:29:11 14 today?

10:29:11 15 A. Other than today.

10:29:12 16 Q. And you turned 61 last month, was

10:29:14 17 it?

10:29:15 18 A. 62.

10:29:16 19 Q. 62?

10:29:17 20 A. Yeah.

10:29:17 21 Q. Sir, has any licensed health

10:29:21 22 professional told you at any time in the last

10:29:25 23 year that you have a terminal illness?

10:29:27 24 A. No.

10:29:28 25 Q. Has any licensed health

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10:29:30 1 professional told you that you are in imminent

10:29:33 2 danger of death?

10:29:35 3 A. No.

10:29:35 4 Q. Now, you mentioned yesterday that

10:29:36 5 you felt like, you know, you have a sense of

10:29:40 6 something that you may be dying?

10:29:41 7 A. Right, um-hum.

10:29:42 8 Q. Has any licensed health

10:29:44 9 professional confirmed that sense to you?

10:29:48 10 A. No.

10:29:51 11 Q. Did you receive any instructions

10:29:53 12 from any health professional not to travel?

10:29:57 13 A. No.

10:29:58 14 Q. Did you receive any instructions

10:29:59 15 from any health professional not to testify

10:30:02 16 today?

10:30:03 17 A. No.

10:30:03 18 Q. Do you plan on traveling back to

10:30:06 19 North Carolina in the new year?

10:30:08 20 A. I'm not sure.

10:30:10 21 Q. What are your travel plans after

10:30:12 22 the holidays?

10:30:13 23 A. I'm not sure.

10:30:15 24 Q. Well, what are you contemplating?

10:30:17 25 MR. ROMINE: Asked and answered.

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10:30:30 1 THE WITNESS: At this time, I'm not

10:30:31 2 sure.

10:30:31 3 BY MR. COUGHLIN:

10:30:32 4 Q. Where do you plan on being in the

10:30:33 5 month of January?

10:30:36 6 MR. ROMINE: Asked and answered.

10:30:36 7 THE WITNESS: I'm not sure.

10:30:38 8 BY MR. COUGHLIN:

10:30:38 9 Q. Where are possible places where

10:30:39 10 you would be in January as a matter of course?

10:30:41 11 MR. ROMINE: Asked and answered.

10:30:42 12 THE WITNESS: Ohio, Michigan or North

10:30:43 13 Carolina or Florida.

10:30:45 14 BY MR. COUGHLIN:

10:30:46 15 Q. Okay. And do you have residences

10:30:48 16 in each of those states?

10:30:48 17 A. No.

10:30:48 18 Q. Where would you stay in Florida?

10:30:49 19 A. People I've done work for.

10:30:49 20 Q. And where is that located in

10:30:51 21 Florida?

10:30:51 22 A. Marco Beach -- Marco Island, Snow

10:30:57 23 Hill, North Carolina, Ypsilanti, Michigan, and

10:31:02 24 Dayton, Ohio.

10:31:03 25 Q. The same people have properties in

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10:31:06 1 each -- and I think I'm misunderstanding. Who  
 10:31:09 2 is it you would stay with at Marco?  
 10:31:10 3 MR. ROMINE: Objection. Beyond the  
 10:31:12 4 scope of the direct. Beyond the scope of Judge  
 10:31:14 5 Rice's guidelines for this deposition.  
 10:31:15 6 THE WITNESS: What, do I answer?  
 10:31:17 7 BY MR. COUGHLIN:  
 10:31:17 8 Q. Yeah, you can -- you can point the  
 10:31:18 9 laugh box at that. Where would you -- where  
 10:31:22 10 would you be if you went down to Marco?  
 10:31:24 11 A. A doctor friend of mine is a  
 10:31:30 12 doctor here in Dayton, his property down there.  
 10:31:32 13 Q. What's his name?  
 10:31:33 14 MR. ROMINE: Objection. Beyond the  
 10:31:35 15 scope of the direct. Beyond the scope of Judge  
 10:31:36 16 Rice's guidelines for this deposition.  
 10:31:38 17 BY MR. COUGHLIN:  
 10:31:38 18 Q. What's his name, sir?  
 10:31:39 19 A. Al Samkari.  
 10:31:41 20 Q. Could you spell that, please, or  
 10:31:42 21 something close to it?  
 10:31:43 22 MR. ROMINE: Same objection.  
 10:31:43 23 BY MR. COUGHLIN:  
 10:31:43 24 Q. Samkari?  
 10:31:44 25 A. A L, S A M C A R I (sic), I think.

10:31:48 1 Q. And he's a physician practicing in  
 10:31:50 2 Dayton?  
 10:31:50 3 MR. ROMINE: Objection. Relevance.  
 10:31:52 4 Beyond the scope of the direct. Beyond the scope  
 10:31:54 5 of Judge Rice's guidelines for this deposition.  
 10:31:56 6 BY MR. COUGHLIN:  
 10:31:58 7 Q. He's a physician practicing in  
 10:31:59 8 Dayton?  
 10:31:59 9 A. Yes.  
 10:31:59 10 MR. ROMINE: Same objection.  
 10:32:00 11 BY MR. COUGHLIN:  
 10:32:00 12 Q. And when you mentioned -- what was  
 10:32:03 13 the name of the city in North Carolina, I  
 10:32:04 14 forgot?  
 10:32:04 15 MR. ROMINE: Same objection.  
 10:32:08 16 THE WITNESS: Snow Hill.  
 10:32:08 17 BY MR. COUGHLIN:  
 10:32:08 18 Q. That's where you were staying  
 10:32:07 19 before where you --  
 10:32:07 20 A. Correct.  
 10:32:08 21 MR. ROMINE: Objection. Beyond the  
 22 scope --  
 23 BY MR. COUGHLIN:  
 24 Q. And then what is the property in  
 25 Michigan?

1 (Thereupon, the court reporter  
 2 interrupted the proceedings.)  
 10:32:13 3 MR. ROMINE: Beyond the scope of the  
 10:32:14 4 direct. Beyond the scope of Judge Rice's  
 10:32:15 5 guidelines for this deposition.  
 10:32:15 6 BY MR. COUGHLIN:  
 10:32:16 7 Q. And who is it you'd be staying  
 10:32:17 8 with in Michigan?  
 10:32:18 9 MR. ROMINE: Objection. Beyond the  
 10:32:19 10 scope of the direct. Beyond the scope of Judge  
 10:32:21 11 Rice's guidelines for this deposition. Relevance.  
 10:32:22 12 THE WITNESS: A woman that I had done  
 10:32:23 13 work.  
 10:32:25 14 BY MR. COUGHLIN:  
 10:32:25 15 Q. And what's her name?  
 10:32:26 16 MR. ROMINE: Objection. Beyond the  
 10:32:27 17 scope of the direct. Beyond the scope of Judge  
 10:32:29 18 Rice's guidelines for this deposition. Relevance.  
 10:32:30 19 BY MR. COUGHLIN:  
 10:32:30 20 Q. And what's her name, sir?  
 10:32:32 21 MR. ROMINE: Objection. Beyond the  
 10:32:34 22 scope of the direct. Beyond the scope of Judge  
 10:32:37 23 Rice's guidelines for this deposition.  
 10:32:37 24 BY MR. COUGHLIN:  
 10:32:37 25 Q. You -- you may answer.

10:32:38 1 MR. ROMINE: Relevance.  
 10:32:38 2 BY MR. COUGHLIN:  
 10:32:39 3 Q. No, we understand that Mr. Romine  
 10:32:40 4 is simply trying to overtalk both you and me,  
 10:32:42 5 but at some point or another, you'll be free to  
 10:32:45 6 answer that question, so when you're ready,  
 10:32:47 7 please do.  
 10:32:47 8 A. Okay.  
 10:32:49 9 Q. And is -- and her name, sir?  
 10:32:51 10 A. Let's not be inappropriate to her,  
 10:32:51 11 because --  
 10:32:52 12 Q. Yes, the -- Barb is working hard.  
 10:32:55 13 A. Okay. Carol Smith is her name.  
 10:32:56 14 Q. And where is she located?  
 10:32:58 15 MR. ROMINE: Same objection.  
 10:32:59 16 THE WITNESS: Ypsilanti, Michigan.  
 10:33:00 17 MR. EDDY: Mr. Grillot, if you could  
 10:33:16 18 kind of keep your voice up. It's a little hard  
 10:33:18 19 for us down here to hear you sometimes, especially  
 10:33:21 20 with the back and forth here.  
 10:33:21 21 THE WITNESS: Sure. Okay.  
 10:33:22 22 MR. EDDY: So when you answer, if you  
 10:33:24 23 could try to keep your voice up, it would be  
 10:33:27 24 greatly appreciated.  
 10:33:27 25 THE WITNESS: I'll do that.



10:32:29 1 MR. EDDY: Thank you.  
 10:32:29 2 THE WITNESS: Um-hum.  
 10:32:29 3 BY MR. COUGHLIN:  
 10:32:29 4 Q. Sir, do you have any military  
 10:32:31 5 service?  
 10:32:31 6 MR. ROMINE: Same objection.  
 10:32:31 7 THE WITNESS: No, I don't.  
 10:32:32 8 BY MR. COUGHLIN:  
 10:32:32 9 Q. Did you -- since you turned  
 10:32:38 10 roughly 18 in 1970, did you register with the  
 10:32:38 11 Selective Service of the United States?  
 10:32:40 12 MR. ROMINE: Same objection.  
 10:32:40 13 THE WITNESS: No.  
 10:32:41 14 BY MR. COUGHLIN:  
 10:32:41 15 Q. You did not?  
 10:32:41 16 A. No.  
 10:32:42 17 Q. Why not?  
 10:32:43 18 MR. ROMINE: Same objection.  
 10:32:44 19 THE WITNESS: I don't know.  
 10:32:46 20 BY MR. COUGHLIN:  
 10:32:51 21 Q. Now, you mentioned in your prior  
 10:32:52 22 deposition that you had a history of alcohol  
 10:32:55 23 abuse and psychiatric treatment. Do you  
 10:32:58 24 remember that testimony?  
 10:32:59 25 A. Correct.

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10:34:00 1 Q. Sir, you indicated that you have  
 10:34:05 2 not been drinking since 2008, correct?  
 10:34:08 3 A. Correct.  
 10:34:08 4 Q. And is that still the case?  
 10:34:11 5 A. Correct.  
 10:34:11 6 Q. In your prior testimony, sir, you  
 10:34:16 7 indicated that you had two felony convictions,  
 10:34:18 8 one relating to a drug offense and one relating  
 10:34:20 9 to domestic violence.  
 10:34:22 10 A. Correct.  
 10:34:23 11 Q. Did the drug conviction involve  
 10:34:25 12 any intent to distribute?  
 10:34:27 13 A. No.  
 10:34:28 14 Q. And, I'm sorry, I don't remember  
 10:34:44 15 if I asked this. Have you had any convictions,  
 10:34:46 16 criminal convictions, of any sort since your  
 10:34:48 17 last testimony --  
 10:34:50 18 A. No.  
 10:34:50 19 Q. -- in 2012? Are there any  
 10:34:52 20 criminal charges pending against you anywhere,  
 10:34:55 21 to your knowledge?  
 10:34:58 22 A. No.  
 10:34:58 23 Q. Now, sir, you're aware that in  
 10:35:03 24 this case, NCR and a company that is a  
 10:35:09 25 successor to Dayton-Walther and a company --

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10:35:14 1 and Hobart are the plaintiffs that brought the  
 10:35:16 2 lawsuit in which you're testifying now --  
 10:35:18 3 MR. ROMINE: Objection.  
 10:35:18 4 BY MR. COUGHLIN:  
 10:35:19 5 Q. -- do you understand that?  
 10:35:19 6 A. Yes, I do.  
 10:35:19 7 MR. ROMINE: Objection. It goes  
 10:35:19 8 beyond --  
 10:35:19 9 THE WITNESS: Yes, I do.  
 10:35:21 10 MR. ROMINE: -- the scope of what the  
 10:35:22 11 judge said. Objection.  
 10:35:22 12 BY MR. COUGHLIN:  
 10:35:22 13 Q. Are you trying to -- are you  
 10:35:22 14 trying to talk over Mr. Romine?  
 10:35:22 15 A. I was trying to help them here.  
 10:35:22 16 (Thereupon, the court reporter  
 10:35:22 17 interrupted the proceedings.)  
 10:35:22 18 MR. ROMINE: It goes beyond the scope  
 10:35:23 19 of the direct. It goes beyond the scope of what  
 10:35:24 20 Judge Rice ordered for this deposition.  
 10:35:28 21 MR. EDDY: May I make a suggestion?  
 10:35:28 22 MR. COUGHLIN: Sure.  
 10:35:28 23 MR. EDDY: And probably should have  
 10:35:41 24 made it yesterday. Sometimes the witness has a  
 10:35:44 25 tendency to speak immediately upon a question mark

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10:35:50 1 at the end of a statement, and it might be helpful  
 10:35:54 2 if the witness pause for just a moment before  
 10:35:57 3 attempting to answer so that if Mr. Romine wants  
 10:36:00 4 to make an objection, he can start it, get it over  
 10:36:04 5 with before you start your answer, but when he  
 10:36:06 6 stops his objection, you are then allowed to  
 10:36:08 7 answer.  
 10:36:09 8 THE WITNESS: I'll try that.  
 10:36:10 9 MR. EDDY: All right. That might  
 10:36:13 10 help.  
 10:36:13 11 MR. SHARETT: I'm sorry, this is  
 10:36:13 12 Anthony Sharett on behalf of DP&L. Whoever was  
 10:36:16 13 just speaking, the people on the telephone could  
 10:36:18 14 not hear a word of that.  
 10:36:18 15 MR. COUGHLIN: Well, we have --  
 10:36:21 16 Anthony, what we have is a working understanding  
 10:36:23 17 among the witness and the lawyers that Mr. Grillot  
 10:36:26 18 is going to try to pause at the end of my question  
 10:36:29 19 and other lawyers' questions, and then to allow  
 10:36:33 20 Mr. Romine to make his objection or not, and then  
 10:36:37 21 at the conclusion of the objection, if there is  
 10:36:41 22 one, proceed with his answer.  
 10:36:41 23 BY MR. COUGHLIN:  
 10:36:42 24 Q. Does that work for you, Mr.  
 10:36:44 25 Grillot?

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10:26:44 1 A. Now I'm confused.

10:26:46 2 Q. Well, I was afraid of that. How

10:26:48 3 about if you let the lawyer, like me, answer

10:26:52 4 the question -- ask the question.

10:26:53 5 A. Okay.

10:26:53 6 Q. Then somebody may or may not

10:26:55 7 object, you never know.

10:26:56 8 A. Okay.

10:26:57 9 Q. And then when that objection is

10:27:00 10 done, proceed with your answer. Is that okay

10:27:04 11 with you?

10:27:04 12 A. Yes.

10:27:05 13 Q. Thank you. Now, before we took

10:27:09 14 that helpful break, you indicated that you were

10:27:13 15 aware that NCR and a successor to

10:27:17 16 Dayton-Walther and Hobart are plaintiffs in the

10:27:20 17 action in which you are testifying, correct?

10:27:23 18 MR. ROMINE: Same objection.

10:27:24 19 THE WITNESS: Yes.

10:27:25 20 BY MR. COUGHLIN:

10:27:25 21 Q. And you understand they're the

10:27:31 22 ones who brought the lawsuit in which you are

10:27:33 23 testifying?

10:27:33 24 MR. ROMINE: Asked and answered.

10:27:34 25 Same objection.

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10:27:36 1 THE WITNESS: Yes.

10:27:36 2 BY MR. COUGHLIN:

10:27:37 3 Q. And -- Bob, that was very helpful.

10:27:42 4 And if I heard correctly yesterday, it was your

10:27:49 5 testimony that you were not aware that

10:27:52 6 Dayton-Walther was a major customer of the

10:27:55 7 South Dayton Dump?

10:27:58 8 A. Could you repeat, please?

10:28:01 9 Q. Did you say yesterday that South

10:28:02 10 Dayton -- that withdrawn. Did you say

10:28:06 11 yesterday that Dayton-Walther was not, to your

10:28:10 12 memory, a major customer of the South Dayton

10:28:16 13 Dump?

10:28:16 14 A. I don't think so.

10:28:17 15 Q. What do you recall is -- involving

10:28:21 16 Walther -- Dayton-Walther's involvement with

10:28:23 17 the South Dayton Dump?

10:28:28 18 A. I'm still confused about that.

10:28:27 19 Q. In what way, sir?

10:28:29 20 A. Because the -- the last of the

10:28:33 21 three, I don't recognize the name. I know it

10:28:36 22 by -- or I don't -- I'm not sure if it's the

10:28:40 23 name connected to the Walther Corporation or

10:28:45 24 not at this point.

10:28:47 25 Q. You're unclear about who or what

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10:28:50 1 Walther is?

10:28:50 2 A. No, the -- the name that's

10:28:53 3 indicated on the third party, does not have the

10:29:02 4 name that I would relate to.

10:29:04 5 Q. Is that Kelsey-Hayes or TRW?

10:29:08 6 A. Kelsey-Hayes, I think.

10:29:09 7 Q. You don't recognize?

10:29:10 8 A. Kelsey-Hayes, I don't think.

10:29:12 9 Q. Okay. What is your understanding

10:29:14 10 of who or what Dayton-Walther was in relation

10:29:17 11 to the South Dayton Dump?

10:29:21 12 A. Please rephrase the question

10:29:32 13 again.

10:29:32 14 Q. What is your understanding of what

10:29:35 15 Dayton-Walther -- Walther's involvement was

10:29:38 16 with the South Dayton Dump?

10:29:39 17 MR. ROMINE: Same objection as before

10:29:31 18 and also vague.

10:29:32 19 THE WITNESS: Friends of the family,

10:29:35 20 and they would dump -- they brought waste, stuff

10:29:42 21 to the dump.

10:29:42 22 BY MR. COUGHLIN:

10:29:43 23 Q. What did they bring to the dump?

10:29:44 24 MR. ROMINE: Same objection as

10:29:45 25 before.

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10:29:46 1 THE WITNESS: I don't recall.

10:29:49 2 BY MR. COUGHLIN:

10:29:48 3 Q. Were they a large customer of the

10:29:49 4 dump?

10:29:51 5 A. Pardon me?

10:29:51 6 Q. Were they a large customer of the

10:29:51 7 dump?

10:29:54 8 A. Oh, no. No.

10:29:55 9 Q. Were they a regular customer of

10:29:55 10 the dump?

10:29:57 11 A. No.

10:29:57 12 Q. Is Hobart a name that you recall

10:40:04 13 associated with the dump?

10:40:05 14 MR. ROMINE: Same objection as

10:40:07 15 before.

10:40:07 16 THE WITNESS: Yes.

10:40:08 17 BY MR. COUGHLIN:

10:40:08 18 Q. Hobart was a customer of the dump?

10:40:11 19 A. Yes.

10:40:12 20 MR. ROMINE: Same objection.

10:40:11 21 BY MR. COUGHLIN:

10:40:12 22 Q. Did you view them to be a large

10:40:13 23 customer of the dump?

10:40:14 24 MR. ROMINE: Same objection.

10:40:15 25 THE WITNESS: No.

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10:40:16 1 BY MR. COUGHLIN:  
 10:40:16 2 Q. What did they bring to the dump?  
 10:40:22 3 A. I can't recall.  
 10:40:27 4 Q. And, of course, you remember NCR  
 10:40:28 5 was a large customer of the dump, correct?  
 10:40:31 6 A. Yes.  
 10:40:32 7 Q. Now, how was Dayton -- withdraw  
 10:40:34 8 that. How is somebody from Dayton-Walther a  
 10:40:38 9 friend of your family? What was the  
 10:40:41 10 relationship?  
 10:40:43 11 A. His son was a race car driver for  
 10:40:46 12 the Indy 500, and my father had a fireworks  
 10:40:52 13 business and Dad would provide fireworks for  
 10:40:56 14 displays after a big show at their house or  
 10:41:01 15 stuff like that.  
 10:41:01 16 Q. What was the son's name?  
 10:41:04 17 A. Salt.  
 10:41:04 18 Q. Pardon me?  
 10:41:08 19 A. Salt Walther.  
 10:41:06 20 Q. Saul?  
 10:41:07 21 A. Salt, like salt.  
 10:41:07 22 Q. Salt, as in salt and pepper,  
 10:41:07 23 Walther?  
 10:41:10 24 A. Um-hum.  
 10:41:11 25 Q. Is he still alive, sir?

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10:41:12 1 A. I don't know.  
 10:41:13 2 Q. When's the last time you saw him?  
 10:41:16 3 A. I have never really seen him  
 10:41:19 4 personally.  
 10:41:36 5 MR. COUGHLIN: Glenn or Jay, do you  
 10:41:39 6 have anything?  
 10:41:39 7 MR. DICKERSON: No follow-up. Thank  
 10:41:39 8 you.  
 10:41:41 9 MR. COUGHLIN: Glenn, anything you'd  
 10:41:42 10 like to follow up with on that, if Glenn Harris is  
 10:41:47 11 on the line still?  
 10:41:50 12 MR. HARRIS: Oh, yes, he is, and I  
 10:41:51 13 don't have any follow-up. Thanks.  
 10:41:54 14 MR. COUGHLIN: Pass the witness.  
 10:41:56 15 MR. ROMINE: Can I do my redirect on  
 10:41:58 16 this or do you want to wait until the end?  
 10:42:01 17 MR. COUGHLIN: We -- we discussed  
 10:42:02 18 that during a break and thought it -- although  
 10:42:03 19 it's going to mess up some schedules for people on  
 10:42:06 20 travel, it probably makes more sense to just do  
 10:42:08 21 all that at the end. Is that okay with you?  
 10:42:10 22 MR. ROMINE: That's fine with me.  
 10:42:13 23 MR. COUGHLIN: Thank you, sir.  
 10:42:14 24 THE WITNESS: You're welcome.  
 10:42:14 25 (Interruption in proceedings.)

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10:42:14 1 (Thereupon, an off-the-record  
 10:42:14 2 discussion was had.)  
 10:42:40 3 MR. COUGHLIN: Okay. There are no  
 10:42:41 4 questions for me or the witness? Then we're  
 10:42:44 5 passing the witness to the next questioner. Thank  
 10:42:47 6 you.  
 10:42:47 7 CROSS-EXAMINATION  
 10:43:08 8 BY MR. COLLIER:  
 10:43:08 9 Q. Mr. Grillot, my name is Orla  
 10:43:09 10 Collier. I'm with the law firm of Benesch,  
 10:43:13 11 Friedlander, Coplan and Aronoff, and I  
 10:43:14 12 represent L.M. Berry Company, and my  
 10:43:14 13 questioning will be limited to that company.  
 10:43:17 14 A. Okay. Thank you.  
 10:43:20 15 Q. And in the course of my  
 10:43:23 16 questioning, I would like to elicit your direct  
 10:43:26 17 knowledge. I don't want an -- an understanding  
 10:43:28 18 maybe what -- from what somebody told you. I  
 10:43:31 19 want your own testimony from your own personal  
 10:43:34 20 knowledge, things that you observed.  
 10:43:35 21 A. Okay.  
 10:43:36 22 Q. And if you need to go beyond that,  
 10:43:37 23 then we'll deal with that as the questioning  
 10:43:39 24 progresses, but the thrust of my questioning is  
 10:43:43 25 solely on your personal knowledge and

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10:43:43 1 involvement with this landfill --  
 10:43:44 2 A. Correct.  
 10:43:46 3 Q. -- okay? All right.  
 10:43:47 4 MR. COLLIER: And for purposes of the  
 10:43:48 5 record, I'm taking this -- I'm doing this  
 10:43:51 6 examination as if on cross-examination.  
 10:43:51 7 BY MR. COLLIER:  
 10:44:01 8 Q. I want to start with your work  
 10:44:06 9 experience, and as I understand it, while you  
 10:44:12 10 did some part-time work at the landfill, did  
 10:44:15 11 you ever become a full-time employee?  
 10:44:19 12 A. I -- I was led to believe I was a  
 10:44:21 13 full-time employee.  
 10:44:23 14 Q. Over what period of time?  
 10:44:28 15 A. From '60 to '69.  
 10:44:34 16 Q. 1960 to 1969?  
 10:44:36 17 A. Right.  
 10:44:36 18 Q. Now, 1960, as you've testified  
 10:44:39 19 before in this deposition, you were in school,  
 10:44:43 20 you were eight years old?  
 10:44:44 21 A. Right.  
 10:44:45 22 Q. Well, how old were you then, eight  
 10:44:50 23 years old?  
 10:44:51 24 A. Eight, something like that.  
 10:44:52 25 Q. Okay. And did you consider

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10:44:57 1 yourself a full-time employee when you were  
 10:44:58 2 eight years old?  
 10:45:00 3 A. Made a dollar a day, yep.  
 10:45:01 4 Q. Okay. You were also going to  
 10:45:04 5 school, I hope, full-time?  
 10:45:06 6 A. When I couldn't get out of it,  
 10:45:10 7 yeah.  
 10:45:10 8 Q. And I believe in terms of  
 10:45:12 9 chronology, you had quit school when you were  
 10:45:15 10 16?  
 10:45:15 11 A. Correct.  
 10:45:16 12 Q. And you were in the 9th grade at  
 10:45:16 13 that time?  
 10:45:16 14 MR. ROMINE: I'm going to object to  
 10:45:18 15 this line of questioning on the ground that it  
 10:45:20 16 rehashes testimony from 2012, which is beyond the  
 10:45:23 17 scope of Judge Rice's order.  
 10:45:25 18 THE WITNESS: Correct.  
 10:45:26 19 BY MR. COLLIER:  
 10:45:26 20 Q. All right. And were you a  
 10:45:28 21 full-time student between the ages of eight and  
 10:45:28 22 16?  
 10:45:31 23 MR. ROMINE: Same objection.  
 10:45:34 24 THE WITNESS: Tried to be.  
 10:45:34 25 BY MR. COLLIER:

10:45:36 1 Q. Okay. Do you know whether the  
 10:45:41 2 South Dayton Landfill was a corporation or  
 10:45:44 3 partnership or any kind of legal entity?  
 10:45:48 4 A. I don't know.  
 10:45:49 5 Q. You were not an officer of that  
 10:45:51 6 corporation at any time, were you?  
 10:45:52 7 A. No.  
 10:45:54 8 Q. You were not a director of South  
 10:45:57 9 Dayton Landfill?  
 10:45:57 10 A. No.  
 10:45:58 11 Q. You were not in management?  
 10:46:01 12 A. No.  
 10:46:01 13 Q. What were your job duties between  
 10:46:05 14 the time you were eight and the time you were  
 10:46:07 15 16?  
 10:46:08 16 MR. ROMINE: Same objection.  
 10:46:12 17 THE WITNESS: You want a description  
 10:46:23 18 or just --  
 10:46:24 19 BY MR. COLLIER:  
 10:46:24 20 Q. What -- did you have a title or a  
 10:46:26 21 job description?  
 10:46:28 22 A. Salvage man.  
 10:46:30 23 Q. Salvage man.  
 10:46:32 24 A. (Witness nodding head up and  
 10:46:32 25 down.)

10:46:22 1 Q. Now, from 1969 to 1970 and during  
 10:46:26 2 that period, you left the dump, did you not, as  
 10:46:32 3 far as being a full-time employee?  
 10:46:33 4 A. Full-time, yes.  
 10:46:34 5 Q. All right. And you, as you  
 10:46:37 6 testified previously, went to work for other  
 10:46:39 7 entities?  
 10:46:39 8 A. Correct.  
 10:46:39 9 Q. From time to time, weekends or  
 10:46:42 10 evenings, you may have been at the dump, but  
 10:46:45 11 you did not consider yourself a full-time  
 10:46:49 12 employee?  
 10:46:49 13 MR. ROMINE: Same objection.  
 10:46:50 14 THE WITNESS: Correct.  
 10:46:50 15 BY MR. COLLIER:  
 10:46:53 16 Q. All right. Now, during this  
 10:46:54 17 period -- and I don't really want to focus on  
 10:46:56 18 what you've referred to as the '60s and I'm --  
 10:47:00 19 what I'm going to define is the period from  
 10:47:04 20 1960 to 1969.  
 10:47:04 21 A. Okay.  
 10:47:04 22 Q. All right. In terms of fixing  
 10:47:06 23 certain events, you testified that an  
 10:47:10 24 incinerator was installed at the dump in 1969  
 10:47:12 25 or thereabouts?

10:47:14 1 A. Somewhereabouts (sic), yeah.  
 10:47:15 2 Q. Okay. And was there any kind of  
 10:47:18 3 incinerator before that period of time?  
 10:47:20 4 A. No.  
 10:47:20 5 Q. All right. But the dump itself  
 10:47:22 6 had always been a burning dump, isn't that  
 10:47:25 7 true?  
 10:47:26 8 A. Correct.  
 10:47:26 9 Q. That is, any -- anything that  
 10:47:27 10 could be burned was burned prior to disposal?  
 10:47:30 11 A. Correct.  
 10:47:30 12 Q. All right. And at this site,  
 10:47:35 13 there were other operations, recycling  
 10:47:37 14 operations, weren't there?  
 10:47:39 15 A. Correct.  
 10:47:39 16 Q. So some material would be recycled  
 10:47:42 17 and never dumped at the site, isn't that true?  
 10:47:44 18 MR. ROMINE: Same objection.  
 10:47:46 19 THE WITNESS: We would have to be  
 10:47:47 20 more specific on --  
 10:47:48 21 BY MR. COLLIER:  
 10:47:48 22 Q. Well, for -- you mentioned  
 10:47:50 23 predominantly skids were recycled and never  
 10:47:53 24 disposed of at the site.  
 10:47:54 25 A. But what I'm saying is, it was

10:47:55 1 dumped, but after it was dumped, then it was --  
 10:47:58 2 Q. Okay.  
 10:47:59 3 A. -- then it was separated.  
 10:48:00 4 Q. Okay. And one thing I want to  
 10:48:02 5 focus on is the difference between transport to  
 10:48:04 6 the site and actual disposal in the landfill.  
 10:48:07 7 I want to be clear about that, okay?  
 10:48:09 8 A. Right.  
 10:48:09 9 Q. Okay. But there was some  
 10:48:12 10 materials that were actually transported to the  
 10:48:13 11 site that were never disposed of at the  
 10:48:14 12 landfill?  
 10:48:17 13 A. Correct.  
 10:48:17 14 Q. Okay. Now, you mentioned skids  
 10:48:23 15 and papers being a couple of examples of that,  
 10:48:23 16 correct?  
 10:48:27 17 MR. ROMINE: Same objection.  
 10:48:29 18 THE WITNESS: Speaking of L.M. Berry  
 10:48:31 19 or are we speaking in general?  
 10:48:31 20 BY MR. COLLIER:  
 10:48:31 21 Q. We're speaking generally at this  
 10:48:33 22 point.  
 10:48:33 23 MR. ROMINE: Same objection.  
 10:48:34 24 THE WITNESS: Yes.  
 10:48:34 25 BY MR. COLLIER:

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10:48:38 1 Q. All right. Now, I'd like to ask  
 10:48:39 2 you about where you lived during this period of  
 10:48:42 3 time. Did you live in the Dayton area?  
 10:48:44 4 A. Yes, I did.  
 10:48:45 5 Q. Between 1960 and 1969?  
 10:48:47 6 A. Correct.  
 10:48:47 7 Q. At what point did you leave the  
 10:48:49 8 Dayton area?  
 10:48:51 9 A. I didn't leave Dayton till '04. I  
 10:48:59 10 think '04 or '05.  
 10:49:00 11 Q. All right. At one point in time,  
 10:49:02 12 the South Dayton Dump ceased acceptance of  
 10:49:05 13 waste, isn't that correct?  
 10:49:07 14 A. To my knowledge.  
 10:49:08 15 Q. All right. And do you know when  
 10:49:09 16 that was?  
 10:49:10 17 MR. ROMINE: Same objection.  
 10:49:11 18 THE WITNESS: No.  
 10:49:13 19 BY MR. COLLIER:  
 10:49:13 20 Q. Was the South Dayton Dump ever a  
 10:49:15 21 licensed facility, to your knowledge?  
 10:49:18 22 A. I don't know.  
 10:49:18 23 Q. Don't know if it was licensed as a  
 10:49:21 24 solid waste facility?  
 10:49:22 25 MR. ROMINE: Asked and answered.

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10:49:23 1 THE WITNESS: I don't know.  
 10:49:24 2 BY MR. COLLIER:  
 10:49:24 3 Q. Or a --  
 10:49:25 4 A. I don't know.  
 10:49:26 5 Q. Was it licensed as a hazardous  
 10:49:28 6 waste facility?  
 10:49:30 7 MR. ROMINE: Asked and answered.  
 10:49:30 8 THE WITNESS: I don't know.  
 10:49:30 9 BY MR. COLLIER:  
 10:49:30 10 Q. Was it licensed in any respect as  
 10:49:32 11 a recycling facility?  
 10:49:34 12 A. I don't know.  
 10:49:34 13 Q. Okay. In your deposition earlier  
 10:49:50 14 in this round, I think it was yesterday, you  
 10:49:54 15 did talk about L.M. Berry Company, did you not?  
 10:49:56 16 A. I did.  
 10:49:57 17 Q. All right. And you talked about  
 10:50:01 18 old phone books, remember that testimony?  
 10:50:03 19 A. Yes, sir.  
 10:50:04 20 Q. All right. I want to focus now  
 10:50:07 21 just on the phone books and not the source of  
 10:50:11 22 who may have transported the phone books.  
 10:50:13 23 A. Okay.  
 10:50:13 24 Q. All right. The old phone books,  
 10:50:18 25 do you know on how many occasions you

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10:50:20 1 personally observed phone books being  
 10:50:22 2 transported to the facility?  
 10:50:26 3 A. Within a year to ten -- nine,  
 10:50:31 4 ten years of my -- what we're speaking of or  
 10:50:34 5 what?  
 10:50:34 6 Q. Whenever you recall, the 1960 or  
 10:50:39 7 1969 or periodically thereafter.  
 10:50:41 8 A. I forgot the question.  
 10:50:42 9 Q. Can you tell me the dates of  
 10:50:44 10 transport of phone books to the facility?  
 10:50:49 11 A. The dates?  
 10:50:49 12 Q. Yeah.  
 10:50:50 13 A. I'll stick with the '60s to '69.  
 10:50:54 14 Q. All right. '60 to '69?  
 10:50:57 15 A. Yeah.  
 10:50:57 16 Q. All right. And you personally  
 10:50:58 17 observed these transport of phone books?  
 10:51:08 18 A. Some of the time.  
 10:51:04 19 Q. Some of the time?  
 10:51:07 20 A. (Nodding head up and down.)  
 10:51:07 21 Q. Can you identify what dates of  
 10:51:10 22 shipment you actually observed phone books  
 10:51:13 23 being transported to the facility?  
 10:51:17 24 A. '65, '66, maybe '67.  
 10:51:19 25 Q. 1965, 1966 and 1967?

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10:51:24 1 A. Right.

10:51:24 2 Q. And you testified in your

10:51:27 3 deposition here that you thought those

10:51:29 4 shipments occurred in March or April?

10:51:35 5 A. Somewhere maybe the beginning of

10:51:35 6 summer, but I thought it was springtime, but,

10:51:37 7 you know.

10:51:38 8 Q. Well, now, March or April, you

10:51:41 9 thought it was in the springtime?

10:51:43 10 A. Right.

10:51:43 11 Q. But you can't be any more

10:51:48 12 definitive?

10:51:48 13 A. No.

10:51:49 14 Q. All right. Isn't it true in your

10:51:52 15 deposition in 2012, you thought those shipments

10:51:55 16 occurred in January or February?

10:51:57 17 A. At this -- without dwelling on it

10:52:01 18 more because of previous knowledge of the phone

10:52:09 19 books, I haven't had a chance to make those

10:52:17 20 decisions at this point.

10:52:18 21 Q. So you can't say whether these

10:52:20 22 shipments in the period of time you described

10:52:22 23 were in January and February or March or April?

10:52:27 24 A. I can't at this point.

10:52:29 25 Q. All right. Now, these phone

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10:52:31 1 books, were they White Pages or Yellow Pages or

10:52:34 2 some other form of phone book?

10:52:39 3 A. I think at that particular time

10:52:48 4 there was a White Pages, and then the -- the

10:52:51 5 Yellow Pages.

10:52:53 6 Q. Did these come in separate

10:52:56 7 shipments?

10:52:56 8 A. I don't remember.

10:52:59 9 Q. Can you -- and we'll start with

10:53:01 10 the White Pages. Can you identify the city for

10:53:05 11 which these White Pages would have been

10:53:07 12 published?

10:53:12 13 A. The surrounding area of Dayton.

10:53:13 14 Q. Can you be more specific? Do you

10:53:18 15 personally recollect any city for which these

10:53:21 16 White Pages referred?

10:53:22 17 A. There's a list of them. I mean,

10:53:25 18 do you want me to mention all of them?

10:53:26 19 Q. No. I'm asking you, as you

10:53:27 20 personally observed these shipments, what

10:53:31 21 cities were the Whites Page directories for?

10:53:34 22 A. Dayton.

10:53:38 23 Q. Dayton?

10:53:38 24 A. Yeah.

10:53:38 25 Q. Okay. Anything else? Any other

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10:53:39 1 city?

10:53:40 2 A. No.

10:53:43 3 Q. And you're sure these White Pages

10:53:44 4 were from the City of Dayton?

10:53:48 5 A. Pretty sure.

10:53:47 6 Q. And were these shipments on

10:53:54 7 pallets?

10:53:54 8 A. No.

10:53:55 9 Q. And your testimony was these

10:54:02 10 shipments came in by truck, is that correct?

10:54:05 11 A. Correct.

10:54:06 12 Q. All right. But the trucks had no

10:54:08 13 markings?

10:54:09 14 A. Correct.

10:54:10 15 Q. Didn't identify L.M. Berry in any

10:54:13 16 respect?

10:54:13 17 A. No.

10:54:13 18 Q. All right. The -- the phone

10:54:19 19 books, starting with the White Pages, was there

10:54:20 20 any identification of L.M. Berry on these phone

10:54:23 21 books, to your personal recollection?

10:54:26 22 A. I'm not sure.

10:54:27 23 Q. What about the Yellow Pages, same

10:54:32 24 question?

10:54:33 25 A. Same -- same thing.

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10:54:32 1 Q. Okay. All you know is there were

10:54:36 2 phone books shipped to the facility?

10:54:39 3 A. Correct.

10:54:40 4 Q. Now, at the time of these

10:54:42 5 shipments -- I think you said it was 1965 to

10:54:45 6 1968? 1965, '66 and '67?

10:54:51 7 A. Correct.

10:54:52 8 Q. Three shipments?

10:54:54 9 A. That I remember quite well, yes.

10:54:57 10 Q. Yes. Your -- again, your personal

10:54:59 11 knowledge.

10:55:00 12 A. Yes.

10:55:00 13 Q. Okay. At that time, you would

10:55:14 14 have been how old in 1965?

10:55:17 15 A. Let's see. 13, I think.

10:55:20 16 Q. 13?

10:55:21 17 A. 13, I think.

10:55:22 18 Q. 13. 14 in 1966 and 15 in 1967?

10:55:24 19 A. Yes.

10:55:27 20 Q. And your response was you were not

10:55:28 21 a full-time employee during that period or were

10:55:34 22 you?

10:55:34 23 MR. ROMINE: Asked and answered.

10:55:35 24 BY MR. COLLIER:

10:55:35 25 Q. You didn't quit school until 1968.

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10:55:38 1 A. During the summertime. Full-time  
 10:55:40 2 during off school periods.  
 10:55:43 3 Q. Now, the actual operations were  
 10:55:46 4 under the supervision of Kenneth Grillot, isn't  
 10:55:50 5 that correct?  
 10:55:50 6 A. Correct.  
 10:55:53 7 Q. And the actual handling of the  
 10:55:53 8 accounting and invoicing was under Alcine's  
 10:55:56 9 responsibility?  
 10:55:57 10 A. Correct.  
 10:55:57 11 Q. And, again, you had no defined  
 10:55:59 12 duties with respect to either accounting or  
 10:56:03 13 processing and operations, you were in salvage?  
 10:56:05 14 A. Correct. Well, I did mention I  
 10:56:09 15 stapled these tickets -- these things here  
 10:56:13 16 together (indicating).  
 10:56:14 17 Q. Now, I'm going to focus on this  
 10:56:31 18 period, 1965 to 1967, which you can recall  
 10:56:34 19 shipments of phone books having been made. The  
 10:56:37 20 incinerator was not in operation during that  
 10:56:39 21 period of time.  
 10:56:43 22 A. Yes.  
 10:56:44 23 Q. That's correct?  
 10:56:45 24 A. Correct.  
 10:56:46 25 Q. All right. But there was still

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10:56:48 1 burning at the facility?  
 10:56:50 2 A. Correct.  
 10:56:50 3 Q. Did you have -- did you personally  
 10:56:54 4 observe what happened to these annual shipments  
 10:56:56 5 in '65 through '67? Were the phone books  
 10:56:56 6 burnt?  
 10:57:01 7 A. No, no. The earlier years, yes,  
 10:57:04 8 but after I spoke about the two gentlemen that  
 10:57:11 9 had the trash truck that threw them in for Bob  
 10:57:18 10 Aldridge, no.  
 10:57:19 11 Q. But, again, we want to focus on  
 10:57:23 12 the period of '65 through '67. We've  
 10:57:24 13 established the incinerator was not in  
 10:57:28 14 operation, but there was still burning at the  
 10:57:28 15 facility.  
 10:57:28 16 A. Yes.  
 10:57:28 17 Q. All right. The phone books  
 10:57:31 18 shipped between '65 and '67, did they go into  
 10:57:34 19 the burning pit?  
 10:57:35 20 A. No.  
 10:57:36 21 Q. Where did they go?  
 10:57:38 22 A. It depends on what happened to  
 10:57:43 23 them during the time they were on the dump. If  
 10:57:45 24 they were left out and got wet, then they were  
 10:57:47 25 sent down to the third pier to be --

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10:57:49 1 Q. Again, this is your personal  
 10:57:50 2 recollection?  
 10:57:50 3 A. Yes. They were sent down to the  
 10:57:53 4 third pier to be buried. If they were still  
 10:57:55 5 dry and was able to be shredded, they were put  
 10:57:58 6 on the garbage -- or the dump truck or they  
 10:58:05 7 call them trash truck.  
 10:58:08 8 Q. Trash truck?  
 10:58:08 9 A. You know, like one you see that  
 10:58:09 10 goes around the neighborhood that they put the  
 10:58:14 11 garbage in and then it goes down and pushes it  
 10:58:15 12 up into the thing.  
 10:58:16 13 Q. All right. Well, let me break it  
 10:58:17 14 down a little bit more.  
 10:58:18 15 A. Okay.  
 10:58:19 16 Q. Again, this period '65 through  
 10:58:22 17 '67, phone books at the site, were they  
 10:58:28 18 shredded?  
 10:58:28 19 A. Not there, no. No.  
 10:58:30 20 Q. Not at the site?  
 10:58:31 21 A. No.  
 10:58:31 22 Q. Did they leave the site?  
 10:58:33 23 A. Yes, they did.  
 10:58:34 24 Q. Where did they go?  
 10:58:36 25 A. I don't know.

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10:58:38 1 Q. They were -- were they recycled?  
 10:58:41 2 MR. COUGHLIN: Objection.  
 10:58:43 3 THE WITNESS: I don't know.  
 10:58:43 4 BY MR. COLLIER:  
 10:58:44 5 Q. But they -- the phone books from  
 10:58:49 6 '65 to '67 that were at the site, were not  
 10:58:52 7 disposed of at the site?  
 10:58:52 8 MR. ROMINE: Asked and answered.  
 10:58:53 9 Mischaracterizes his testimony.  
 10:58:53 10 THE WITNESS: Then, again, if they --  
 10:58:53 11 BY MR. COLLIER:  
 10:58:57 12 Q. Can you answer that question?  
 10:58:59 13 A. -- were wet --  
 10:58:59 14 MR. ROMINE: Object.  
 10:59:01 15 THE WITNESS: Yes. I'm sorry. Yes.  
 10:59:02 16 BY MR. COLLIER:  
 10:59:02 17 Q. Yes, they were taken off the site?  
 10:59:05 18 MR. ROMINE: Same objection.  
 10:59:06 19 THE WITNESS: No.  
 10:59:07 20 BY MR. COLLIER:  
 10:59:08 21 Q. All right. Were some of them  
 10:59:11 22 taken offsite?  
 10:59:12 23 A. Yes.  
 10:59:13 24 Q. And where did they go?  
 10:59:16 25 A. Then, again -- I'm trying to --

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10:59:21 1 you know, I --

10:59:23 2 Q. And this is your personal

10:59:24 3 recollection. If you don't recall --

10:59:26 4 MR. ROMINE: Asked and answered.

10:59:27 5 THE WITNESS: No, I recall, but I'm

10:59:27 6 trying to, you know --

10:59:27 7 BY MR. COLLIER:

10:59:28 8 Q. Then answer the question.

10:59:30 9 A. Vague, but, yes -- but yet

10:59:32 10 informative, they went to Larry Brandon's

10:59:40 11 Dayton Fiber, I'm almost sure, but to be

10:59:44 12 totally accurate, I don't know.

10:59:49 13 Q. Okay. Do you think it more likely

10:59:58 14 than not that they were taken to Larry

11:00:01 15 Brandon's facility?

11:00:01 16 A. Correct.

11:00:02 17 Q. Okay. And that is whether they

11:00:05 18 were wet or not?

11:00:08 19 A. Dry.

11:00:09 20 Q. Dry?

11:00:10 21 A. (Nodding head up and down.)

11:00:10 22 Q. If they were -- if the phone books

11:00:12 23 during this period, '65 to '67, were dry, they

11:00:16 24 were shredded and then taken to Larry Brandon's

11:00:19 25 recycling facility?

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11:00:20 1 A. No.

11:00:20 2 Q. Were they shredded?

11:00:23 3 A. Yes.

11:00:23 4 Q. And then what happened to them?

11:00:26 5 A. They were processed into

11:00:28 6 insulation.

11:00:29 7 Q. At Larry's facility?

11:00:31 8 A. Correct.

11:00:31 9 Q. Okay. And was Larry's facility at

11:00:35 10 the site of the South Dayton Dump or somewhere

11:00:37 11 else?

11:00:37 12 A. Somewhere else.

11:00:37 13 Q. Okay. So they were taken offsite?

11:00:40 14 A. Correct.

11:00:40 15 Q. Okay. And would that be the

11:00:43 16 routine then, if phone books were dry and

11:00:47 17 salvageable, they were taken offsite for

11:00:50 18 recycling?

11:00:50 19 A. Correct.

11:00:51 20 Q. Now, if they weren't taken offsite

11:00:58 21 to Larry's facility, what, if anything, would

11:01:03 22 happen to those phone books during the period

11:01:07 23 of '65 to '67?

11:01:06 24 A. Taken down to the third pier and

11:01:08 25 buried.

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11:01:09 1 Q. Okay. And did you personally

11:01:13 2 observe phone books being buried in the third

11:01:16 3 tier?

11:01:16 4 A. Yes.

11:01:16 5 Q. And they were never burned onsite?

11:01:23 6 A. No.

11:01:25 7 Q. And after 1969, when the

11:01:33 8 incinerator was in place, and, again, based on

11:01:38 9 your personal knowledge, were the phone books

11:01:41 10 incinerated?

11:01:44 11 A. No. As I indicated yesterday and

11:01:49 12 possibly this morning, nothing could go but

11:01:50 13 wood.

11:01:50 14 Q. All right. After 1969 when the

11:01:53 15 Dayton Fiber facility was opened by Larry

11:01:56 16 Brandon, phone books were routinely taken to

11:01:59 17 that facility?

11:02:01 18 A. Some of them.

11:02:03 19 Q. Well, again, question, some of

11:02:06 20 them were and some of them weren't?

11:02:08 21 A. Correct.

11:02:09 22 Q. All right. And what would -- what

11:02:12 23 would be the circumstances defining where they

11:02:12 24 went?

11:02:14 25 A. Whether they were wet or not.

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11:02:17 1 Q. Whether they were wet. Okay.

11:02:25 2 Now, for purposes of your testimony in 2012 and

11:02:28 3 for purposes of your deposition yesterday and

11:02:32 4 today, you were provided no documents with

11:02:37 5 regard to the source of these phone books, were

11:02:39 6 you?

11:02:39 7 A. No.

11:02:40 8 Q. You had no dump receipts to

11:02:42 9 review?

11:02:43 10 A. No.

11:02:44 11 Q. You had no logs?

11:02:46 12 A. No.

11:02:46 13 Q. No deposit tickets?

11:02:48 14 A. No.

11:02:49 15 Q. No invoices?

11:02:50 16 A. No.

11:02:51 17 Q. None of those that would indicate

11:02:53 18 the source as being L.M. Berry?

11:02:54 19 A. No.

11:02:54 20 Q. You had no other shipping

11:02:57 21 documents?

11:02:57 22 A. No.

11:02:57 23 Q. You had no waste profile sheets?

11:03:01 24 A. No.

11:03:01 25 Q. You had no documents whatsoever to

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11:03:06 1 establish that L.M. Berry was the source of  
 11:03:07 2 those phone books?  
 11:03:08 3 A. Correct.  
 11:03:10 4 Q. All right. And you had no contact  
 11:03:20 5 at L.M. Berry that you personally dealt with?  
 11:03:22 6 A. No.  
 11:03:23 7 Q. You did no billing to L.M. Berry?  
 11:03:25 8 A. No.  
 11:03:26 9 Q. In terms of the volume that  
 11:03:31 10 actually was disposed of in the landfill of  
 11:03:35 11 these phone books, there's no way you can  
 11:03:38 12 determine what the volume of those phone books  
 11:03:41 13 was?  
 11:03:43 14 A. I don't understand the question.  
 11:03:44 15 Q. There's no -- you have no  
 11:03:46 16 documentation to establish what the volume of  
 11:03:48 17 those phone books were --  
 11:03:50 18 A. No.  
 11:03:50 19 Q. -- during the period from '65 to  
 11:03:53 20 '67, or what the weight would have been?  
 11:03:56 21 A. No.  
 11:03:57 22 Q. When you say the old phone books  
 11:04:03 23 were disposed of at the site that were wet, was  
 11:04:06 24 there a particular tier that they were disposed  
 11:04:09 25 of?

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11:04:09 1 A. Right, the third tier.  
 11:04:10 2 Q. The third tier?  
 11:04:11 3 A. Right.  
 11:04:12 4 Q. Okay. If I can have a moment.  
 11:04:18 5 Oh, is the South Dixie Highway also the  
 11:04:32 6 Kettering Road?  
 11:04:33 7 A. Kettering Boulevard, yeah.  
 11:04:44 8 MR. COLLIER: Okay. Just give me a  
 11:04:45 9 moment, I think I'm about done. I'm going to take  
 11:05:12 10 a break, and just give me a minute.  
 11:05:18 11 (Pause in proceedings.)  
 11:05:21 12 BY MR. COLLIER:  
 11:16:04 13 Q. Real quick -- we can go back on  
 11:16:07 14 the record -- I did just have one area -- small  
 11:16:08 15 area of questions, and that skids, you  
 11:16:12 16 mentioned skids and L.M. Berry. Skids were  
 11:16:14 17 routinely recycled, repaired and taken offsite?  
 11:16:20 18 A. Other than broken ones, they were  
 11:16:20 19 incinerated.  
 11:16:23 20 Q. And there's no way today you can  
 11:16:26 21 identify any skids that were broken and  
 11:16:28 22 incinerated from L.M. Berry?  
 11:16:29 23 A. No.  
 11:16:30 24 MR. COLLIER: That's all the  
 11:16:32 25 questions I have. Thank you.

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11:16:32 1 THE WITNESS: Thank you.  
 11:16:32 2 CROSS-EXAMINATION  
 11:16:32 3 BY MR. HARBECK:  
 11:17:15 4 Q. Good morning, Mr. Grillot.  
 11:17:16 5 A. Good morning.  
 11:17:17 6 Q. Are you still feeling okay?  
 11:17:18 7 A. Yes. Thank you.  
 11:17:19 8 Q. Please let me know if you don't  
 11:17:23 9 understand a question that I ask.  
 11:17:23 10 A. Okay.  
 11:17:23 11 Q. And also make sure -- this has  
 11:17:26 12 happened from time to time -- that when you  
 11:17:28 13 answer either yes or no, you -- you verbally  
 11:17:31 14 say it as opposed to nodding or shaking your  
 11:17:33 15 head or saying uh-huh or um-hum.  
 11:17:34 16 A. Okay.  
 11:17:35 17 Q. Because then we don't know what  
 11:17:37 18 you said later when we're reading the  
 11:17:38 19 transcript.  
 11:17:39 20 A. Correct.  
 11:17:39 21 Q. I want to talk just very briefly  
 11:17:42 22 about McCall's --  
 11:17:45 23 A. Okay.  
 11:17:46 24 Q. -- waste that you testified about  
 11:17:47 25 earlier. I believe that you said the first

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11:17:52 1 time you personally observed McCall's waste  
 11:17:56 2 being taken to the site was in 1968, is that  
 11:17:58 3 correct?  
 11:17:59 4 A. No, I thought I said that I  
 11:18:00 5 remember magazine covers and sometime  
 11:18:05 6 magazines, find them in piles of trash.  
 11:18:08 7 Q. I understand that.  
 11:18:09 8 A. Okay.  
 11:18:09 9 Q. But the first time you saw a load  
 11:18:13 10 of any type of waste from McCall's personally  
 11:18:15 11 was around 1968, that's what you said earlier.  
 11:18:19 12 Do you remember that?  
 11:18:20 13 A. Yes.  
 11:18:20 14 Q. And you testified that you may  
 11:18:23 15 have seen some magazines before 1968 that had  
 11:18:27 16 the name McCall's on them, right?  
 11:18:29 17 A. Right. Correct.  
 11:18:30 18 Q. Now, you don't know at that point  
 11:18:32 19 whether those magazines actually were waste  
 11:18:36 20 from McCall's or waste from another company  
 11:18:38 21 that was throwing away old magazines, do you?  
 11:18:40 22 A. Correct.  
 11:18:41 23 Q. Okay. And would it be fair to say  
 11:18:45 24 that the -- the vast majority of the waste that  
 11:18:48 25 you personally observed being disposed of by

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11:18:53 1 McCall's consisted of cardboard, paper waste  
 11:18:58 2 and skids?  
 11:18:59 3 A. Correct.  
 11:19:02 4 Q. The vast majority, correct?  
 11:19:03 5 A. The vast majority.  
 11:19:06 6 Q. Okay. I want to talk just briefly  
 11:19:10 7 about NCR waste. You testified earlier that  
 11:19:15 8 waste from NCR and waste from Standard Register  
 11:19:19 9 was pretty much the same, correct?  
 11:19:20 10 A. Correct.  
 11:19:20 11 Q. And you described the Standard  
 11:19:24 12 Register waste as including some plastic  
 11:19:27 13 related waste, some things that were coated in  
 11:19:29 14 plastic, correct?  
 11:19:29 15 A. Correct.  
 11:19:30 16 Q. And did the NCR waste also consist  
 11:19:33 17 of that type of waste, as best you can  
 11:19:33 18 remember?  
 11:19:34 19 A. I don't remember.  
 11:19:34 20 Q. Okay. Would it be -- since they  
 11:19:39 21 were similar, would you agree that the NCR  
 11:19:43 22 waste likely contained that type of plastic  
 11:19:44 23 waste, too?  
 11:19:45 24 MR. ROMINE: Objection. Calls for  
 11:19:45 25 opinion.

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11:19:45 1 BY MR. HARBECK:  
 11:19:45 2 Q. Go ahead.  
 11:19:46 3 A. Yes.  
 11:19:48 4 Q. Okay. And any plastic waste from  
 11:19:50 5 NCR would have been burned just like the waste  
 11:19:53 6 from Standard Register, is that correct?  
 11:19:54 7 A. No.  
 11:19:56 8 Q. Because you testified that the  
 11:19:58 9 waste from plastic -- from Standard Register  
 11:20:03 10 would have been first burned and then later  
 11:20:05 11 buried. That's what you said happened to the  
 11:20:09 12 Standard Register plastic type waste --  
 11:20:10 13 A. No, I --  
 11:20:10 14 Q. -- is that correct?  
 11:20:11 15 A. I thought I -- do you want me to  
 11:20:12 16 correct what I thought I said or what I might  
 11:20:14 17 have said?  
 11:20:15 18 Q. Tell me what you -- tell me what  
 11:20:18 19 you thought you said.  
 11:20:18 20 A. I thought I said I had to take  
 11:20:19 21 screwdrivers and stuff and take the plastic  
 11:20:22 22 off, and then they were put on the third pier,  
 11:20:24 23 I thought.  
 11:20:24 24 Q. Okay. That's fine. I think we're  
 11:20:27 25 saying the same thing. So the plastics that

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11:20:29 1 were on any waste from either Standard Register  
 11:20:31 2 or NCR, you removed the plastics and those were  
 11:20:35 3 then put on the third tier, correct?  
 11:20:36 4 A. Correct.  
 11:20:37 5 Q. And those were ultimately then  
 11:20:39 6 buried?  
 11:20:40 7 A. Yes.  
 11:20:42 8 Q. Okay. Could some of that waste  
 11:20:45 9 also have been burned when the pit caught on  
 11:20:47 10 fire from time to time?  
 11:20:47 11 A. Correct.  
 11:20:48 12 Q. Now, Dayton-Walther, in your first  
 11:20:56 13 deposition, you recalled a little bit more  
 11:20:59 14 about the waste from Dayton-Walther than you  
 11:21:01 15 see to recall this morning.  
 11:21:03 16 A. Correct.  
 11:21:03 17 Q. So let me just tell you what you  
 11:21:06 18 said then and see if that's consistent now  
 11:21:06 19 with -- if that rings a bell.  
 11:21:08 20 A. Okay.  
 11:21:09 21 Q. You said Dayton-Walther waste  
 11:21:11 22 included metal products.  
 11:21:12 23 A. To my knowledge, yes.  
 11:21:13 24 Q. Okay. And you also testified in  
 11:21:16 25 your first deposition that Dayton-Walther waste

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11:21:18 1 was delivered to the site about once a month.  
 11:21:24 2 A. I don't recall, but, yes.  
 11:21:25 3 Q. Does that sound about right now as  
 11:21:26 4 you're sitting here?  
 11:21:28 5 A. Yes.  
 11:21:28 6 Q. Okay. You talked about wood  
 11:21:32 7 waste, and at one point you were talking about  
 11:21:34 8 wood waste kind of overwhelming the  
 11:21:36 9 incinerator. Do you remember that?  
 11:21:37 10 A. Yeah.  
 11:21:37 11 Q. And that wood waste, was it --  
 11:21:42 12 I -- is it fair to assume or fair to say that  
 11:21:44 13 that wood waste was wood waste from all sorts  
 11:21:47 14 of customers, not just from one particular  
 11:21:49 15 customer?  
 11:21:50 16 A. Yes.  
 11:21:50 17 Q. Okay. I want to talk just a  
 11:21:57 18 little bit more about Container Services and  
 11:22:01 19 General Refuge.  
 11:22:02 20 A. Okay.  
 11:22:03 21 Q. Now, you earlier testified you  
 11:22:06 22 believed that those two companies were somehow  
 11:22:08 23 affiliated or connected, correct?  
 11:22:10 24 A. Correct.  
 11:22:10 25 Q. And in your first deposition you

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11:22:13 1 said Container Services was involved in the  
 11:22:14 2 servicing of the containers themselves and that  
 11:22:20 3 General Refuge was the actual hauling company.  
 11:22:22 4 Do you remember that?

11:22:23 5 A. Yes.

11:22:24 6 Q. Okay. And that's -- is that  
 11:22:24 7 consistent with your memory today?

11:22:27 8 A. But I think I'm maybe not coming  
 11:22:32 9 forth or -- you know, how it actually works,  
 11:22:34 10 but, yes.

11:22:37 11 Q. Okay. So just so I'm clear,  
 11:22:39 12 General Refuge was the company that would pick  
 11:22:43 13 up waste from various customers, and that was  
 11:22:48 14 the company that would actually haul it to the  
 11:22:49 15 South Dayton Dump, is that right?

11:22:50 16 A. No.

11:22:50 17 Q. Well, you -- again, when you were  
 11:22:53 18 talking about this in your first deposition,  
 11:22:54 19 you said Container Services did things like  
 11:22:58 20 service the containers, fix them, rebuild them,  
 11:23:01 21 paint them, weld them, and that General Refuse  
 11:23:02 22 was the arm of the company that was actually  
 11:23:06 23 the hauling business.

11:23:06 24 A. No, I -- what I thought I said was  
 11:23:10 25 that General Refuge handled most garbage, okay.

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11:23:16 1 which wasn't allowed on South Dayton Dump.

11:23:18 2 And that Container Service did  
 11:23:22 3 most of the big Dumpsters, the 44 yard and the  
 11:23:28 4 60 yard that serviced big companies, and then  
 11:23:31 5 there was a third entity within Aldridge and  
 11:23:35 6 Brandon's operation.

11:23:36 7 Q. Was that the Dayton Fiber entity?

11:23:36 8 A. No.

11:23:40 9 Q. What was the name of that entity?

11:23:41 10 A. I still can't remember the actual  
 11:23:43 11 name, but they're the ones that built the  
 11:23:46 12 containers and -- brand new from metal and then  
 11:23:50 13 spray painted.

11:23:53 14 Q. Okay. And I just want to go back  
 11:23:56 15 to your first deposition when you testified  
 11:23:57 16 about General Refuse and Container Services.

11:24:01 17 You were being asked about  
 11:24:18 18 Container Service, and the question was, what  
 11:24:30 19 was their connection to South -- to SDD, did  
 11:24:32 20 they bring waste, and you testified Larry  
 11:24:38 21 Brandon and another gentleman ran that company  
 11:24:38 22 before they were bought out by a Chicago-based  
 11:24:39 23 outfit, and they would mainly dump at  
 11:24:39 24 Blaylock's because it was mostly garbage and  
 11:24:39 25 stuff.

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11:24:38 1 There was a couple chicken packing  
 11:24:37 2 places, Valley Farms, I think, all the chicken  
 11:24:40 3 parts would come in that.

11:24:42 4 Question, they would go to  
 11:24:43 5 Blaylock, the chicken parts? Yeah. Question,  
 11:24:46 6 or to you? Yeah. Okay.

11:24:50 7 Answer, but that was General  
 11:24:51 8 Refuse and Container Service. Container  
 11:24:53 9 Service was more of a service of the  
 11:24:55 10 containers. They'd bring them in.

11:24:57 11 When I worked for Larry's that --  
 11:24:59 12 they would bring them in and we would reweld  
 11:25:02 13 them if they got bent up and paint them, but  
 11:25:04 14 General Refuse was the actual hauling company.

11:25:07 15 A. That last statement is not  
 11:25:12 16 completely accurate, and what I just said there  
 11:25:16 17 is correct, that's what I'm trying to say, that  
 11:25:24 18 General Refuge mostly handled garbage, the  
 11:25:28 19 waste of -- of chicken parts. And that  
 11:25:37 20 Container Service, you know, serviced -- or  
 11:25:38 21 brought the containers in if they were broke.

11:25:42 22 They're the ones that did the  
 11:25:43 23 biggest hauling of stuff that was, you know,  
 11:25:49 24 burnt at the incinerator, so I haven't -- I  
 11:25:52 25 wasn't -- haven't been more directly dividing

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11:25:55 1 them up, you know, and from what you just read,  
 11:25:58 2 I think it sounds consistent with what I'm  
 11:26:02 3 saying right now, so --

11:26:02 4 Q. Okay. So let me understand this  
 11:26:05 5 now. It's your testimony that -- I think I've  
 11:26:07 6 got it -- General Refuge -- the garbage that  
 11:26:11 7 General Refuge picked up, which wasn't the  
 11:26:13 8 burnable sort of stuff, would go to another  
 11:26:17 9 dumpsite, is that correct?

11:26:17 10 A. Correct.

11:26:18 11 Q. And the stuff that Container  
 11:26:21 12 Services picked up would be the burnable stuff  
 11:26:25 13 and the wood and the paper, correct?

11:26:27 14 A. Correct.

11:26:27 15 Q. Okay. Do you know where the  
 11:26:34 16 Blaylock dump was?

11:26:38 17 A. I do. I don't recall right at  
 11:26:42 18 this moment.

11:26:42 19 Q. Have you ever heard of the  
 11:26:46 20 Cardington Road Landfill?

11:26:46 21 A. If I did, it was from that piece  
 11:26:52 22 of paper, but I don't -- it's not real common  
 11:26:54 23 to my knowledge right now.

11:26:56 24 Q. And the piece of paper is  
 11:26:59 25 Exhibit 1 that the -- the map of the landfills

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11:27:01 1 that you were shown earlier.

11:27:03 2 A. Right. Yes.

11:27:03 3 Q. Okay. Was the reason that the

11:27:11 4 garbage went to the Blaylock site was because

11:27:14 5 Blaylock was not a burning dump?

11:27:18 6 A. Correct.

11:27:20 7 Q. So the stuff that was taken by

11:27:23 8 Container Services to the South Dayton Dump was

11:27:27 9 the burnable stuff, correct?

11:27:28 10 A. Correct.

11:27:29 11 Q. And that consisted of cardboard,

11:27:32 12 skids and other wood, correct?

11:27:35 13 A. Correct.

11:27:35 14 Q. Okay. As far as you know, were

11:27:40 15 the loads from -- any loads from Container

11:27:44 16 Services, therefore, burned at the -- that were

11:27:46 17 taken to the South Dayton Dump burned at the

11:27:48 18 South Dayton Dump?

11:27:48 19 A. Could you please rephrase that?

11:27:49 20 Q. Were -- any loads that were from

11:27:52 21 Container Services that were taken to the South

11:27:54 22 Dayton Dump, did they end up being burned at

11:27:56 23 the South Dayton Dump?

11:27:57 24 A. Yes.

11:27:57 25 Q. Okay. Do you know, did Container

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11:28:04 1 Service or General Refuge have its own

11:28:06 2 landfill?

11:28:10 3 A. Yeah, that would be -- well, it

11:28:16 4 would be the Powell Road Landfill, but that

11:28:20 5 wasn't till later, like '68, '69, that it got

11:28:24 6 into operation.

11:28:26 7 Q. So it's your -- at least your

11:28:30 8 belief today that the Powell Road Landfill was

11:28:35 9 owned by the Container Service, General Refuge

11:28:39 10 operation?

11:28:39 11 A. To my knowledge, yes.

11:28:40 12 Q. Okay. Do you know where Bertwin

11:28:48 13 Drive is?

11:28:51 14 A. It rings a bell, but -- I know it

11:28:55 15 like I know my name, but it's not coming to me.

11:28:57 16 Q. Okay. You said the location where

11:29:00 17 Container Services, Larry's Brandon's --

11:29:03 18 A. Facility.

11:29:04 19 Q. -- facility was, the name has

11:29:08 20 changed over time?

11:29:08 21 A. Yes.

11:29:07 22 Q. You believe it's now on North

11:29:09 23 Springboro Pike?

11:29:09 24 A. Yes.

11:29:08 25 Q. At one point could the address --

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11:29:12 1 or if you can remember, was the address 2208

11:29:17 2 Bertwin Drive?

11:29:17 3 A. Yeah, I think so.

11:29:19 4 Q. That sounds right?

11:29:19 5 A. Yeah.

11:29:19 6 Q. Okay. You believe that this

11:29:22 7 facility was -- you said your belief was it's

11:29:25 8 about a quarter mile away?

11:29:28 9 A. Right.

11:29:28 10 Q. Could it have been longer than

11:29:28 11 that, maybe a couple miles away?

11:29:28 12 A. Oh, no.

11:29:30 13 Q. Are you sure about that?

11:29:32 14 A. I'm sure.

11:29:32 15 Q. Okay. But it's on North

11:29:34 16 Springboro Pike. Has Bertwin Drive -- the name

11:29:39 17 of Bertwin Drive changed to North Springboro

11:29:42 18 Pike in the last number of years?

11:29:43 19 A. Like I said, there for a while, it

11:29:45 20 was changing so much, I -- so I -- I don't

11:29:48 21 remember.

11:29:48 22 Q. Okay.

11:29:54 23 A. I do remember where Baylock (sic)

11:29:54 24 now was, so --

11:29:54 25 Q. I'm sorry?

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11:29:58 1 A. I remember now where Baylock was.

11:29:59 2 Q. Where was that?

11:30:01 3 A. On South Dixie Drive and Dorothy

11:30:01 4 Lane.

11:30:06 5 Q. Okay. On both of those roads or

11:30:10 6 was it off South Dixie?

11:30:12 7 A. It was more on South Dixie.

11:30:14 8 Q. Than -- than Dorothy Lane?

11:30:14 9 A. Correct.

11:30:17 10 Q. The tipping fee for the landfill

11:30:24 11 or the fee, you know, the amount that people

11:30:25 12 would pay when they disposed at landfills,

11:30:28 13 you've talked about the cash transactions and

11:30:31 14 what people were charged for that.

11:30:32 15 Do you know what the charge was

11:30:32 16 for people that were the regular accounts or

11:30:36 17 the ones that were billed, you know, on a

11:30:39 18 monthly basis, how much they paid per load?

11:30:42 19 A. No.

11:30:43 20 Q. Okay. So throughout any period of

11:30:45 21 time, either the '60s or '70s, that's something

11:30:49 22 you just didn't know about, is that fair, in

11:30:51 23 terms of how much?

11:30:52 24 A. Correct.

11:30:52 25 Q. Okay. Dayton Fiber, this

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11:31:05 1 operation that Larry Brandon operated --  
 11:31:10 2 A. Correct.  
 11:31:10 3 Q. -- where was that located?  
 11:31:13 4 A. West River Road, I believe.  
 11:31:20 5 Q. Do you know -- and I'm sorry if  
 11:31:25 6 you were asked this before, I just can't  
 11:31:27 7 remember what your answer was -- when he  
 11:31:29 8 started that company?  
 11:31:34 9 A. I would have to say '68.  
 11:31:39 10 Q. Okay. And as you described it, it  
 11:31:43 11 was a -- an operation that would take in paper  
 11:31:47 12 waste from various places, including paper  
 11:31:49 13 waste that had been taken to the South Dayton  
 11:31:51 14 Dump, and he -- he made it into insulation?  
 11:31:54 15 A. Correct.  
 11:31:54 16 Q. How long did he run that business?  
 11:31:58 17 A. I think Larry had sold that  
 11:32:04 18 business, I think, in '72, '73, something like  
 11:32:06 19 that, I think. I'm not sure.  
 11:32:08 20 Q. Okay. So you think it was in --  
 11:32:09 21 in operation for roughly five years or so?  
 11:32:12 22 A. Yeah.  
 11:32:12 23 Q. Okay. And you worked for Larry  
 11:32:18 24 at Dayton Fiber for a period of time, correct?  
 11:32:19 25 A. No.

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11:32:21 1 Q. Never?  
 11:32:21 2 A. No.  
 11:32:22 3 Q. Okay. You worked for Larry at  
 11:32:27 4 Container Services or General Refuge for a  
 11:32:30 5 chunk of time, correct?  
 11:32:32 6 A. Not General Refuge -- well, yes, I  
 11:32:34 7 did. Yes, I did.  
 11:32:34 8 Q. Okay. And in your first  
 11:32:38 9 deposition, you said you started working for  
 11:32:40 10 Larry at General Refuge, and the first thing  
 11:32:42 11 you did was built some offices, do you remember  
 11:32:44 12 that?  
 11:32:46 13 A. That was in the time period, yes.  
 11:32:48 14 Q. In the time period -- when did you  
 11:32:50 15 start doing that? I assume that was after  
 11:32:52 16 Doyle's?  
 11:32:52 17 A. Yes.  
 11:32:53 18 Q. Okay.  
 11:32:54 19 A. I don't remember.  
 11:32:58 20 Q. Was it in the '70s?  
 11:33:05 21 A. No. I don't remember.  
 11:33:06 22 Q. Okay. Well, I know you started  
 11:33:09 23 working for Doyle's around, what, when you were  
 11:33:11 24 16 years old?  
 11:33:11 25 A. '68, something --

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11:33:13 1 Q. So that puts you in '68?  
 11:33:15 2 A. (Witness nodding head up and  
 11:33:18 3 down.)  
 11:33:15 4 Q. And then you had a job at Liberal  
 11:33:18 5 Markets --  
 11:33:18 6 A. Um-hum.  
 11:33:18 7 Q. -- a little bit after that?  
 11:33:19 8 A. (Witness nodding head up and  
 11:33:19 9 down.)  
 11:33:19 10 Q. And then sometime after that, did  
 11:33:22 11 you --  
 11:33:23 12 A. It would have to be '70s, yeah.  
 11:33:25 13 Q. It would be in the '70s?  
 11:33:27 14 A. Yeah.  
 11:33:27 15 Q. Okay. You also stated that you  
 11:33:32 16 pressure washed and painted some General Refuge  
 11:33:34 17 trucks while working for Larry, do you remember  
 11:33:36 18 that?  
 11:33:36 19 A. Correct.  
 11:33:36 20 Q. Was that the same period of time  
 11:33:39 21 that you were working for him as Container  
 11:33:40 22 Services or General Refuge?  
 11:33:43 23 A. At the beginning, but -- yeah, at  
 11:33:43 24 the beginning.  
 11:33:44 25 Q. Okay. How long did you work for

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11:33:45 1 Larry at Container Services or General Refuge?  
 11:33:48 2 A. I was switched around to so many  
 11:33:57 3 different locations, I couldn't really narrow  
 11:34:00 4 it down..  
 11:34:01 5 Because one day they might send me  
 11:34:02 6 up to one place and another day somewhere else,  
 11:34:05 7 so I was sort of a go between all of them,  
 11:34:09 8 so --  
 11:34:09 9 Q. Okay. Do you remember roughly for  
 11:34:11 10 what period of time you worked for him in that  
 11:34:14 11 capacity?  
 11:34:18 12 A. I think '70 --  
 11:34:22 13 Q. I don't know -- I know you can't  
 11:34:23 14 pinpoint a year. I want to know just about how  
 11:34:26 15 long.  
 11:34:26 16 A. I'm trying to think. '70 to '73,  
 11:34:28 17 something like that maybe.  
 11:34:30 18 Q. So you think about three years?  
 11:34:32 19 A. Yeah, something like that.  
 11:34:34 20 Q. And it could have been sometime in  
 11:34:35 21 the mid '70s?  
 11:34:36 22 A. Right.  
 11:34:37 23 Q. Is that how you also became  
 11:34:44 24 familiar with the General Refuge trucks by  
 11:34:47 25 working at that facility?

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11:34:48 1 A. Yes.

11:34:49 2 Q. I assume you got paid by Container

11:34:55 3 Services for doing that work, correct?

11:34:57 4 A. Correct.

11:34:57 5 Q. Do you recall how much?

11:35:04 6 A. By hour or weekly?

11:35:08 7 Q. Weekly.

11:35:12 8 A. I probably grossed a couple

11:35:15 9 hundred dollars.

11:35:15 10 Q. Okay. And then taxes would come

11:35:17 11 off of that?

11:35:19 12 A. Correct.

11:35:19 13 Q. Okay. Was there ever a trailer

11:35:27 14 park at the South Dayton Dump site?

11:35:29 15 A. A trailer park?

11:35:30 16 Q. A trailer park.

11:35:34 17 A. No.

11:35:34 18 Q. How long have you been back in the

11:35:41 19 Dayton area after your last deposition? How

11:35:47 20 long have you been living or residing in the

11:35:50 21 Dayton area?

11:35:50 22 A. A year and a half maybe.

11:35:57 23 MR. HARBECK: Okay. That's it.

11:36:10 24 Thanks so much for your time.

11:36:13 25 THE WITNESS: You're welcome.

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## CROSS-EXAMINATION

11:37:07 1 BY MR. MCCALL:

11:37:07 2 Q. Mr. Grillot, my name is Duke

11:37:09 3 McCall. I represent Reynolds and Reynolds in

11:37:10 4 this case. I'm going to ask you a few

11:37:12 5 follow-up questions as well. I just wanted to

11:37:15 6 first make sure you're still feeling okay.

11:37:17 7 A. Yes.

11:37:20 8 Q. And you're at this point feeling

11:37:20 9 well enough to continue to testify?

11:37:24 10 A. Yes, I am.

11:37:26 11 Q. Okay. I want to start by asking

11:37:27 12 you a few clarifying questions concerning the

11:37:31 13 testimony you gave yesterday as well as earlier

11:37:35 14 today. When did you first move to North

11:37:38 15 Carolina?

11:37:38 16 A. '78 -- I mean '08.

11:37:52 17 Q. Did you live continuously in North

11:37:54 18 Carolina from 2008 till some point in the

11:37:59 19 future?

11:38:03 20 A. No.

11:38:04 21 Q. Okay. How long did you live in

11:38:04 22 North Carolina after moving there in 2008?

11:38:07 23 A. Could you rephrase that, please?

11:38:11 24 Q. My question is, after you moved to

11:38:12 25

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11:38:14 1 North Carolina in 2008, how long did you live

11:38:17 2 there before moving to somewhere else?

11:38:19 3 A. Thirteen weeks.

11:38:21 4 Q. Thirteen weeks. At some point in

11:38:27 5 time, did you live in North Carolina

11:38:29 6 permanently?

11:38:29 7 A. Yes.

11:38:29 8 Q. And when did that happen?

11:38:36 9 A. I think 2010.

11:38:38 10 Q. And how long did you live in North

11:38:40 11 Carolina after moving there permanently in

11:38:42 12 2010?

11:38:44 13 A. Two years.

11:38:48 14 Q. And when did you -- when you moved

11:38:51 15 out of North Carolina, where did you move to?

11:38:54 16 A. Dayton, Ohio.

11:38:54 17 Q. And when was that?

11:39:01 18 A. Oh, spring of 2012.

11:39:04 19 Q. And at some point, did you return

11:39:08 20 back to North Carolina after moving to Dayton

11:39:11 21 in the spring of 2012?

11:39:14 22 A. No.

11:39:14 23 Q. I want to step back a little bit

11:39:30 24 in time and ask you about an earlier time

11:39:32 25 period, specifically the 1970s. I understand

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11:39:39 1 from -- let me rephrase that.

11:39:41 2 You were not present at the site

11:39:44 3 during normal working hours during the week in

11:39:48 4 the 1970s, were you? By the site, I'm

11:39:49 5 referring to the South Dayton Dump.

11:39:53 6 A. Could you repeat that, please?

11:39:54 7 Q. I will try hard to clarify that

11:39:58 8 question. I'm trying to understand when you

11:40:02 9 were at the dump in the 1970s, so let me try to

11:40:06 10 put that question a little more artfully.

11:40:09 11 You were not present at the site

11:40:12 12 during normal working hours during the weekday

11:40:18 13 in the 1970s, were you?

11:40:20 14 A. No.

11:40:20 15 Q. When did -- and you've talked a

11:40:27 16 bit about cardboard recycling. When did that

11:40:29 17 begin at the South Dayton Dump?

11:40:43 18 A. '67. Around '67.

11:40:49 19 Q. You've also testified a bit about

11:41:02 20 paper recycling. When did that begin?

11:41:06 21 A. Two -- about two years later, so

11:41:10 22 at least '68, something like that.

11:41:15 23 Q. You also testified about the reuse

11:41:19 24 of pallet or skids. When did that begin?

11:41:26 25 A. I don't know.

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11:41:28 1 Q. Did that begin in -- what decade  
 11:41:32 2 did the -- were -- did folks at the South  
 11:41:38 3 Dayton Dump begin to reuse or recycle or send  
 11:41:40 4 the pallets to Skid Row, as you referred to it?  
 11:41:43 5 A. '70 -- or I mean, '60s.  
 11:41:47 6 Q. So it began at some point in the  
 11:41:51 7 '60s, is that correct?  
 11:41:51 8 A. Right.  
 11:41:53 9 Q. Are you familiar with an address,  
 11:42:01 10 7561 Walmac Street in Huber Heights, Ohio?  
 11:42:03 11 A. Yes.  
 11:42:03 12 Q. Okay. And what's at that  
 11:42:05 13 location?  
 11:42:07 14 A. Donna's residence.  
 11:42:09 15 Q. And what's Donna's last name?  
 11:42:11 16 A. Moeller, M O E L L E R.  
 11:42:14 17 Q. Now, you've been asked a number of  
 11:42:18 18 questions already today about your prior  
 11:42:24 19 deposition in April of 2012. I'm going to ask  
 11:42:28 20 you a few more.  
 11:42:30 21 A. Okay.  
 11:42:30 22 Q. And one of the questions you were  
 11:42:33 23 asked during that deposition was about the  
 11:42:35 24 companies that disposed of waste at the South  
 11:42:38 25 Dayton Dump. Do you recall being asked that?

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11:42:52 1 A. Yes.  
 11:42:52 2 Q. And specifically you were asked  
 11:42:59 3 about the -- providing a list of companies who  
 11:43:02 4 disposed of at the dump by what you -- the list  
 11:43:06 5 you provided to Mr. Walsh. Do you recall that  
 11:43:11 6 line of questioning?  
 11:43:11 7 A. Yes.  
 11:43:12 8 Q. Okay. And you were asked -- I'm  
 11:43:15 9 going to read this to you and then ask you a  
 11:43:18 10 question about it.  
 11:43:19 11 You were asked, did you give them  
 11:43:19 12 the name first or did they give you the name  
 11:43:20 13 first? Your answer was, I gave them the name  
 11:43:22 14 first.  
 11:43:23 15 Question, with what names did you  
 11:43:25 16 give them? And your answer was, several, but  
 11:43:28 17 your company was mentioned.  
 11:43:30 18 I don't recall who asked you the  
 11:43:32 19 question, but the follow-up question was, what  
 11:43:34 20 names did you give them? And your answer was,  
 11:43:36 21 it would have been General Motors, Inland,  
 11:43:40 22 Delphi, Frigidaire, Monsanto, Dayton Tire and  
 11:43:44 23 Rubber, McCall's, Sherwin-Williams, Durrel  
 11:43:48 24 Paint, Franklin Iron and Metal, Patterson Iron  
 11:43:52 25 and Metal, Duriron, A.E. Fickert and Son,

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11:43:54 1 Dayton-Walther. That's pretty much the list I  
 11:43:58 2 can remember.  
 11:44:00 3 A. Correct.  
 11:44:01 4 Q. Was that testimony true and  
 11:44:04 5 accurate when you gave it at your deposition?  
 11:44:06 6 A. At that particular time, yes.  
 11:44:08 7 Q. And it was complete, to the best  
 11:44:11 8 of your recollection, at that time, wasn't it?  
 11:44:14 9 A. No.  
 11:44:15 10 MR. ROMINE: Objection.  
 11:44:15 11 Mischaracterizes his testimony.  
 11:44:16 12 THE WITNESS: No.  
 11:44:16 13 BY MR. McCALL:  
 11:44:18 14 Q. So your -- the testimony you gave  
 11:44:20 15 at your deposition, you knew it was then  
 11:44:22 16 complete at the time you gave it?  
 11:44:23 17 A. Pardon me? I couldn't hear.  
 11:44:24 18 Q. My question was, was your  
 11:44:27 19 testimony complete, to the best of your  
 11:44:30 20 recollection, as of April 24th, 2012?  
 11:44:32 21 A. Correct.  
 11:44:34 22 Q. You did not intentionally fail to  
 11:44:37 23 disclose any companies that you recalled  
 11:44:42 24 disposing of waste at your prior deposition?  
 11:44:42 25 A. Correct.

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11:44:43 1 Q. Now, you did not mention, during  
 11:44:48 2 that deposition on April 24th, 2012, any  
 11:44:51 3 disposal by Reynolds and Reynolds, did you?  
 11:44:53 4 A. No.  
 11:44:54 5 Q. Now, the list you provided to Mr.  
 11:44:58 6 Walsh that you identified in the April 24th,  
 11:45:00 7 2012, deposition, was that your recollection of  
 11:45:07 8 the main customers at the dump?  
 11:45:09 9 A. Correct.  
 11:45:10 10 Q. And by virtue of the fact that  
 11:45:14 11 Reynolds and Reynolds was not included, is it  
 11:45:14 12 fair to say that Reynolds and Reynolds was not  
 11:45:16 13 a main customer of the South Dayton Dump?  
 11:45:18 14 A. Correct.  
 11:45:19 15 Q. Now, you testified, also, in your  
 11:45:24 16 deposition, that Mr. Walsh wrote down a list of  
 11:45:28 17 companies you identified for him. Do you  
 11:45:31 18 recall that?  
 11:45:31 19 A. Yes.  
 11:45:32 20 Q. And you saw him write that on a  
 11:45:34 21 list of -- a piece of paper?  
 11:45:36 22 A. Correct.  
 11:45:37 23 MR. McCALL: Mr. Romine, I'm going to  
 11:45:39 24 ask that you produce a copy of that list to me,  
 11:45:41 25 along with any and all other interview notes, that

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11:45:44 1 Mr. Walsh took during his interviews of Mr.  
 11:45:48 2 Grillot.  
 11:45:48 3 MR. ROMINE: I will take your request  
 11:45:50 4 under advisement.  
 11:45:52 5 BY MR. MCCALL:  
 11:45:53 6 Q. Do you recall, speaking of other  
 11:45:56 7 notes, Mr. Grillot, Mr. Walsh taking other  
 11:45:58 8 notes during your discussions with him?  
 11:46:01 9 A. Yes.  
 11:46:02 10 Q. On how many occasions did he take  
 11:46:05 11 notes?  
 11:46:06 12 A. During our conversation.  
 11:46:07 13 Q. On how many times did you have  
 11:46:10 14 conversations with him in which you remember  
 11:46:12 15 him writing notes?  
 11:46:14 16 A. The one time.  
 11:46:16 17 Q. Well, let me try to clarify that,  
 11:46:21 18 because I asked you a moment ago if you recall  
 11:46:23 19 him taking notes on other occasions, other than  
 11:46:26 20 the first list that -- that you saw him write  
 11:46:29 21 down, and I understood you said yes. Was that  
 11:46:34 22 correct?  
 11:46:34 23 A. I'm confused.  
 11:46:37 24 Q. As -- as am I. Let's try to  
 11:46:40 25 clarify. You testified at your April 24, 2012,

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11:46:47 1 deposition, that Mr. Walsh prepared a list of  
 11:46:50 2 the companies that you identified for him, is  
 11:46:54 3 that correct?  
 11:46:54 4 A. For himself, yes.  
 11:46:58 5 Q. And you saw him write that down?  
 11:46:58 6 A. Yes.  
 11:46:58 7 Q. And my question for you is, did  
 11:47:00 8 you see him take notes during any other  
 11:47:03 9 meetings you had with him?  
 11:47:04 10 A. No.  
 11:47:04 11 Q. Do you know whether he did or did  
 11:47:08 12 not take notes?  
 11:47:08 13 A. I don't know.  
 11:47:16 14 Q. Now, Mr. Grillot, do you recall  
 11:47:21 15 after your deposition on April 24th, 2012,  
 11:47:26 16 executing a series of declarations?  
 11:47:28 17 A. Pardon me?  
 11:47:30 18 Q. Do you recall signing a few  
 11:47:34 19 declarations after your deposition on  
 11:47:38 20 April 24th, 2012?  
 11:47:37 21 A. No.  
 11:47:38 22 Q. You don't recall that?  
 11:47:38 23 A. No.  
 11:47:40 24 Q. Is it your testimony, as you sit  
 11:47:41 25 here today, that you did not execute any

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11:47:54 1 declarations after your April 24th, 2012,  
 11:47:57 2 deposition?  
 11:47:57 3 A. I don't understand declaration.  
 11:47:59 4 Q. Okay. Were you asked to sign a  
 11:48:02 5 statement about other customers of the South  
 11:48:06 6 Dayton Dump after your deposition on  
 11:48:07 7 April 24th, 2012?  
 11:48:09 8 A. No.  
 11:48:10 9 Q. You were not asked to sign any  
 11:48:11 10 statements?  
 11:48:11 11 A. No.  
 11:48:27 12 MR. COUGHLIN: Excuse me. May I  
 11:48:30 13 interject? Did you sign any statements?  
 11:48:30 14 THE WITNESS: Pardon me?  
 11:48:31 15 MR. COUGHLIN: Did you sign any  
 11:48:32 16 statements?  
 11:48:33 17 THE WITNESS: I don't remember. I'm  
 11:48:34 18 saying no at this particular time.  
 11:48:37 19 MR. COUGHLIN: Thank you.  
 11:48:57 20 BY MR. MCCALL:  
 11:48:57 21 Q. I want to turn now to your  
 11:49:03 22 testimony yesterday about Reynolds and  
 11:49:06 23 Reynolds, and although you had not mentioned  
 11:49:09 24 Reynolds and Reynolds in your prior deposition,  
 11:49:12 25 you did talk about Reynolds and Reynolds in

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11:49:15 1 response to questions you were asked by Mr.  
 11:49:18 2 Romine yesterday. Do you recall that?  
 11:49:18 3 A. Yes, I do.  
 11:49:20 4 Q. You told Mr. Romine that you did  
 11:49:26 5 not recall any Reynolds and Reynolds trucks at  
 11:49:30 6 the dump, is that correct?  
 11:49:31 7 A. Correct.  
 11:49:32 8 Q. And that was true and accurate  
 11:49:33 9 testimony?  
 11:49:34 10 A. Correct.  
 11:49:37 11 Q. You also told Mr. Romine that you  
 11:49:39 12 did not recall any of the drivers who allegedly  
 11:49:45 13 delivered waste from Reynolds and Reynolds to  
 11:49:49 14 the South Dayton Dump. Do you recall that?  
 11:49:50 15 A. Correct.  
 11:49:50 16 Q. And that was true and accurate  
 11:49:52 17 testimony?  
 11:49:52 18 A. Yes.  
 11:49:53 19 Q. You described various products  
 11:50:03 20 that you believed were delivered to the dump,  
 11:50:06 21 the South Dayton Dump by -- or waste, excuse  
 11:50:10 22 me. Let me rephrase that.  
 11:50:12 23 You described various categories  
 11:50:14 24 of waste that you believe were from Reynolds  
 11:50:17 25 and Reynolds that were disposed of at the South

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11:50:20 1 Dayton Dump, the first of which was paper  
 11:50:20 2 shreds.  
 11:50:23 3 Can you describe that in a little  
 11:50:24 4 more detail, what the paper shreds are that  
 11:50:27 5 you're referring to?  
 11:50:28 6 A. More like office trash can, stuff  
 11:50:32 7 like that.  
 11:50:34 8 Q. When you say more like office  
 11:50:38 9 trash cans, are you referring to shredded paper  
 11:50:41 10 from an office trash can?  
 11:50:43 11 A. Some, yes.  
 11:50:45 12 Q. What else would fall in the  
 11:50:46 13 category of paper shred?  
 11:50:49 14 A. Bathroom stuff, but mostly paper.  
 11:50:59 15 Like sheets of paper like this (indicating)  
 11:51:01 16 and --  
 11:51:02 17 Q. Okay. And let me -- I asked a  
 11:51:08 18 terrible question, so let me try to ask a  
 11:51:07 19 better one.  
 11:51:08 20 When you referred to paper shreds  
 11:51:12 21 during your testimony that you believe came  
 11:51:13 22 from Reynolds and Reynolds, specifically what  
 11:51:13 23 are you talking about?  
 11:51:18 24 MR. ROMINE: Asked and answered.  
 11:51:22 25 THE WITNESS: I'm still a little

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11:51:23 1 confused, but paper products that looked like  
 11:51:28 2 office things.  
 11:51:29 3 BY MR. McCALL:  
 11:51:29 4 Q. Okay. Could you tell what was  
 11:51:34 5 written on these shredded papers?  
 11:51:38 6 A. Well, that's how I know and why I  
 11:51:41 7 made the comment, because I remember being down  
 11:51:44 8 in the dump sitting on a couch reading stuff  
 11:51:48 9 and it was just office talking stuff, you know.  
 11:51:57 10 Q. You were reading the shredded  
 11:51:57 11 papers?  
 11:51:58 12 A. No, the papers that -- some of  
 11:52:00 13 them were together, you know. I don't remember  
 11:52:08 14 the detail, what they are, but, you know,  
 11:52:17 15 that's it.  
 11:52:18 16 Q. Well, let me try to be a little  
 11:52:20 17 bit more clear. I -- my question was, could  
 11:52:22 18 you see what was written on the shredded  
 11:52:25 19 paper?  
 11:52:26 20 A. No.  
 11:52:26 21 Q. You referred to other papers that  
 11:52:32 22 were not shredded. What did you read on those  
 11:52:35 23 papers? And I'm specifically talking about any  
 11:52:38 24 paper that you believe came from Reynolds and  
 11:52:40 25 Reynolds.

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11:52:40 1 A. I was mostly looking for scrap  
 11:52:43 2 paper to take home to make -- write things on,  
 11:52:49 3 and I think the letterhead is what caught my  
 11:52:54 4 attention.  
 11:52:56 5 Q. Okay. Well, what's the letterhead  
 11:52:57 6 that you're referring to?  
 11:52:58 7 A. That would be Reynolds and  
 11:53:03 8 Reynolds.  
 11:53:03 9 Q. And what did this letterhead look  
 11:53:04 10 like?  
 11:53:06 11 A. It was just lettering, you know,  
 11:53:08 12 that I remember.  
 11:53:10 13 Q. You also referred to skids  
 11:53:30 14 yesterday among the list of -- of things that  
 11:53:32 15 you believe may have come from Reynolds and  
 11:53:34 16 Reynolds and been disposed of at the dump.  
 11:53:38 17 What specifically do you recall  
 11:53:39 18 about these skids?  
 11:53:43 19 A. I thought I mentioned that it was  
 11:53:45 20 just paper waste, but if I did, I don't  
 11:53:48 21 remember.  
 11:53:48 22 Q. So you don't remember any skids  
 11:53:49 23 coming from Reynolds and Reynolds?  
 11:53:51 24 A. No, I don't.  
 11:53:51 25 Q. Okay. What about boxes?

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11:53:55 1 A. Yes.  
 11:53:56 2 Q. And can you describe for me the  
 11:53:59 3 boxes you observed that you believe may have  
 11:54:03 4 come from Reynolds and Reynolds for disposal?  
 11:54:05 5 Well, actually let me rephrase  
 11:54:07 6 that. Can you describe for me the boxes that  
 11:54:10 7 you believe came from Reynolds and Reynolds and  
 11:54:12 8 arrived at the South Dayton Dump?  
 11:54:16 9 A. They were just ordinary cardboard  
 11:54:19 10 boxes that had tape that some of the papers  
 11:54:25 11 were loose into it. It might be a -- some kind  
 11:54:31 12 of insulation to hold something in, but they  
 11:54:34 13 were brown boxes.  
 11:54:38 14 Q. And these were -- did you see any  
 11:54:42 15 writing on these brown boxes?  
 11:54:44 16 A. No.  
 11:54:51 17 Q. Now, you've testified you don't  
 11:54:56 18 recall any Reynolds and Reynolds trucks at the  
 11:55:01 19 South Dayton Dump.  
 11:55:02 20 MR. ROMINE: Asked and answered.  
 11:55:04 21 MR. McCALL: I've not asked a  
 11:55:05 22 question yet.  
 11:55:05 23 BY MR. McCALL:  
 11:55:05 24 Q. You've also testified that you  
 11:55:08 25 don't recall any drivers delivering Reynolds

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11:55:13 1 and Reynolds material to the dump.  
 11:55:15 2 MR. ROMINE: Objection. That's not a  
 11:55:17 3 question.  
 11:55:17 4 BY MR. McCALL:  
 11:55:21 5 Q. My question for you, Mr. Grillot,  
 11:55:25 6 is the sole basis for your belief that Reynolds  
 11:55:29 7 and Reynolds waste was delivered to the South  
 11:55:33 8 Dayton Dump, the letterhead that you saw?  
 11:55:34 9 A. Correct.  
 11:55:34 10 Q. Now, Mr. Grillot, I want to ask  
 11:55:39 11 you a few questions about the legal troubles,  
 11:56:04 12 which I think you've touched on briefly today  
 11:56:08 13 as well as discussed at your prior deposition.  
 11:56:12 14 You testified at your prior  
 11:56:15 15 deposition that you were -- you had two prior  
 11:56:17 16 felony convictions, do you recall that?  
 11:56:18 17 MR. ROMINE: Asked and answered.  
 11:56:20 18 THE WITNESS: Correct.  
 11:56:25 19 MR. McCALL: And I will stipulate for  
 11:56:26 20 the record, I previously had not asked that  
 11:56:29 21 question.  
 11:56:34 22 BY MR. McCALL:  
 11:56:38 23 Q. Mr. Grillot, the first felony  
 11:56:41 24 conviction you mentioned was a -- related to  
 11:56:44 25 marijuana possession, is that correct?

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11:56:47 1 A. Correct.  
 11:56:48 2 MR. ROMINE: Objection. Asked and  
 11:56:48 3 answered. Goes beyond the scope of direct. It's  
 11:56:51 4 against Judge Rice's order not to go back and  
 11:56:53 5 rehash former testimony.  
 11:56:55 6 BY MR. McCALL:  
 11:56:55 7 Q. Now, Mr. Grillot, you also  
 11:56:57 8 mentioned a 2003 domestic violence felony  
 11:57:02 9 conviction, is that correct?  
 11:57:03 10 A. Correct.  
 11:57:04 11 MR. ROMINE: Same objection.  
 11:57:10 12 MR. McCALL: I'd like to mark this as  
 11:57:12 13 Defense Exhibit 3.  
 11:57:13 14 (Thereupon, Defendants' Exhibit  
 11:57:15 15 Number 3, petition to enter a plea of guilty, was  
 11:57:16 16 marked for purposes of identification.)  
 11:57:17 17 BY MR. McCALL:  
 11:57:18 18 Q. Mr. Grillot, you've been handed a  
 11:57:19 19 document which we have marked as Defendants'  
 11:57:19 20 Exhibit 3. It's entitled petition to enter a  
 11:58:00 21 plea of guilty. It has a file date of  
 11:58:05 22 January 21st, 2004.  
 11:58:07 23 If you could turn to the last  
 11:58:13 24 page, there's a signature appearing in the top  
 11:58:16 25 third of the page. Is that your signature?

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11:58:18 1 MR. ROMINE: Objection. This goes  
 11:58:21 2 beyond the scope of the direct and also it  
 11:58:24 3 violates Judge Rice's order not to rehash former  
 11:58:27 4 subject matter.  
 11:58:33 5 THE WITNESS: Yes.  
 11:58:33 6 BY MR. McCALL:  
 11:58:35 7 Q. And is that you're handwriting  
 11:58:37 8 directly above your signature where it's dated  
 11:58:39 9 the 21st day of January, 2004?  
 11:58:41 10 A. Yes.  
 11:58:42 11 MR. ROMINE: Same objection.  
 11:58:42 12 MR. COUGHLIN: Excuse me, could I  
 11:58:48 13 interject? Could you tell us the name of the  
 11:58:48 14 court and the case number, please?  
 11:59:01 15 MR. McCALL: Sure. I mean, we've  
 11:59:02 16 marked it as an exhibit, but I'll go ahead and  
 11:59:03 17 read it off. It's in the Court of Pleas -- excuse  
 11:59:03 18 me.  
 11:59:07 19 In the Common Pleas Court of Greene  
 11:59:08 20 County, Ohio. State of Ohio, plaintiff, versus  
 11:59:01 21 Edward R. Grillot, Sr., case Number 2004 CR 005.  
 11:59:11 22 MR. COUGHLIN: Thank you.  
 11:59:14 23 BY MR. McCALL:  
 11:59:14 24 Q. Now, Mr. Grillot, the indictment  
 11:59:20 25 for this offense states that you had previously

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11:59:23 1 been convicted of domestic violence in Dayton  
 11:59:26 2 Municipal Court in Case Number 00 CRB 5302.  
 11:59:31 3 Do you recall that prior  
 11:59:32 4 conviction for domestic violence in Dayton  
 11:59:34 5 Municipal Court?  
 11:59:34 6 MR. ROMINE: Same objection.  
 11:59:35 7 THE WITNESS: Yes, I do.  
 11:59:36 8 BY MR. McCALL:  
 11:59:36 9 Q. When -- what do you recall about  
 11:59:37 10 that?  
 11:59:38 11 MR. ROMINE: Same objection.  
 11:59:44 12 THE WITNESS: What do I recall about  
 11:59:45 13 it?  
 11:59:45 14 BY MR. McCALL:  
 11:59:45 15 Q. Yes.  
 11:59:47 16 A. That I was arrested for domestic  
 11:59:51 17 violence.  
 11:59:51 18 Q. And who was -- who else was  
 11:59:54 19 involved in that domestic violence incident?  
 11:59:56 20 A. It would have been my wife at that  
 11:59:58 21 time.  
 11:59:58 22 Q. And who was your wife at that  
 12:00:00 23 time?  
 12:00:00 24 MR. ROMINE: Same objection.  
 12:00:01 25 THE WITNESS: Lisa Ann Grillot.

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12:00:07 1 BY MR. MCCALL:

12:00:10 2 Q. Do you also recall domestic

12:00:17 3 violence charges being filed against you in

12:00:19 4 2000 --

12:00:21 5 MR. ROMINE: Same objection.

12:00:23 6 BY MR. MCCALL:

12:00:23 7 Q. -- involving your wife, Lisa A.

12:00:26 8 Grillo?

12:00:28 9 MR. ROMINE: Same objection.

12:00:28 10 THE WITNESS: Yes, I do.

12:00:47 11 MR. MCCALL: I have no further

12:00:48 12 questions at this time. Thank you.

12:00:51 13 MR. HAUGHEY: What is that time -- go

12:00:54 14 off the record, please.

12:00:57 15 (Thereupon, an off-the-record

12:00:57 16 discussion was had.)

12:01:17 17 MR. HARBECK: I just want to go back

12:01:19 18 on the record and just reiterate that the request

12:01:19 19 he made for documents to you, which you'd take

12:01:24 20 under advisement, I'm assuming all counsel would

12:01:25 21 concur in that request, so if we could just -- if

12:01:28 22 there's an exchange, I want it be to public

12:01:32 23 knowledge going forward.

12:01:32 24 Let's just put it on the record just

12:01:34 25 so we've got it. Bill Harbeck. I just want to

12:01:39 1 also request, I think on my behalf and on behalf

12:01:43 2 of all other counsel here, that Mr. McCall asked

12:01:46 3 for documents related to the discussions with Bill

12:01:51 4 Walsh, that that request is made by all of us, and

12:01:54 5 I understand, David, you'll take it under

12:01:58 6 advisement.

12:01:56 7 MR. ROMINE: That is correct.

12:01:58 8 MR. HARBECK: Okay. Thank you.

12:02:01 9 MR. SHARETT: Hello. This is Anthony

12:02:02 10 Sharett on behalf of DP&L. I know I've got about

12:02:03 11 ten minutes of questions to ask.

12:02:04 12 I guess it would be nice to take,

12:02:04 13 before we break, a little bit of a roll call to

12:02:08 14 see how many other attorneys may have some

12:02:12 15 questions so I that can gauge what time I think we

12:02:18 16 might be finished today.

12:02:16 17 MR. HARBECK: Can we go off the

12:02:17 18 record for this so we don't --

12:02:18 19 MR. ROMINE: Yes.

12:02:19 20 (Thereupon, an off-the-record

21 discussion was had.)

22 (Thereupon, the proceedings were

23 adjourned for lunch.)

24 (Thereupon, the proceedings were

25 reconvened.)

1 CROSS-EXAMINATION

2 BY MR. MUSTO:

3 Q. Let's go ahead and start. Mr.

12:47:07 4 Grillo, my name is John Musto. I'm an

12:47:08 5 attorney for the City of Dayton, Ohio. I just

12:47:10 6 want to start off with -- I know you were

12:47:13 7 having some -- you weren't feeling well earlier

12:47:14 8 today. How do you feel right now?

12:47:14 9 A. Good.

12:47:16 10 Q. Are you able to truthfully and

12:47:17 11 accurately testify?

12:47:19 12 A. Yes, I am.

12:47:20 13 Q. Okay. Great. I'm going to cut to

12:47:23 14 the chase here, Mr. Grillo. Other than your

12:47:27 15 testimony yesterday that you believed that

12:47:31 16 vehicles were disposed of for the City of

12:47:34 17 Dayton at Doyle's Auto Salvage Yard at the

12:47:34 18 South Dayton Dump --

12:47:38 19 A. To my knowledge.

12:47:39 20 Q. -- do you have any other knowledge

12:47:41 21 of anything else, materials, waste, otherwise

12:47:46 22 that has been disposed of at the South Dayton

12:47:49 23 Dump on behalf of the City of Dayton?

12:47:51 24 A. Yes.

12:47:52 25 Q. And what is that?

12:47:53 1 A. A lot of blacktop material,

12:48:01 2 concrete, dirt, barrels. I think there was

12:48:17 3 some like guards that you see along the road

12:48:31 4 that's got telephone poles connected to them,

12:48:34 5 but --

12:48:36 6 Q. Guardrails?

12:48:37 7 A. -- like rails that keep you -- a

12:48:39 8 car from going over something. I think that's

12:48:39 9 it.

12:48:34 10 Q. So the entire list that you claim

12:48:39 11 that you have knowledge of that was disposed of

12:48:41 12 at the South Dayton Dump on behalf of the City

12:48:44 13 of Dayton is blacktop materials, concrete,

12:48:48 14 dirt, barrels, guardrails and abandoned

12:48:53 15 vehicles?

12:48:53 16 A. Yes.

12:48:53 17 Q. Is that it?

12:48:54 18 A. I think so.

12:48:55 19 Q. Okay. Let's start off with the

12:48:59 20 blacktop material. What is the basis of your

12:49:01 21 knowledge concerning the blacktop material?

12:49:05 22 A. That trucks from the City of

12:49:07 23 Dayton would come and dump down towards the

12:49:10 24 pit.

12:49:17 25 Q. And on -- was this on one occasion

12/49/21 1 or more than one occasion that you personally  
 12/49/24 2 witnessed?  
 12/49/24 3 A. Several occasions:  
 12/49/25 4 Q. More than five occasions?  
 12/49/27 5 A. Yes.  
 12/49/28 6 Q. More than ten occasions?  
 12/49/31 7 A. Yes.  
 12/49/31 8 Q. More than 15 occasions?  
 12/49/33 9 A. Yes.  
 12/49/34 10 Q. More than 20 occasions?  
 12/49/34 11 A. I don't know.  
 12/49/37 12 Q. And during what time period did  
 12/49/45 13 this occur?  
 12/49/50 14 A. We're still referring to the  
 12/49/52 15 blacktop, correct?  
 12/49/52 16 Q. Yes.  
 12/49/58 17 A. Okay. From around '68 to '70.  
 12/50/09 18 Q. Any other time period?  
 12/50/11 19 A. No. No. Am I speaking loud  
 12/50/19 20 enough down there?  
 12/50/20 21 MR. HARBECK: Yeah, you're doing  
 12/50/31 22 fine.  
 12/50/32 23 THE WITNESS: Okay.  
 12/50/32 24 BY MR. MUSTO:  
 12/50/32 25 Q. Now, on these 20 occasions when

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12/50/34 1 you said the City of Dayton trucks came to drop  
 12/50/39 2 off blacktop material, where did they deposit  
 12/50/33 3 that from the site?  
 12/50/35 4 A. That would go down to the pit.  
 12/50/37 5 Q. And each time, were these marked  
 12/50/40 6 City of Dayton vehicles?  
 12/50/41 7 A. Yes.  
 12/50/41 8 Q. What color were they?  
 12/50/44 9 A. I believe yellow.  
 12/50/49 10 Q. Are you aware of any contract  
 12/50/51 11 between the City of Dayton and South Dayton  
 12/50/53 12 Dump for the disposal of this material?  
 12/50/56 13 A. Not to my knowledge.  
 12/50/57 14 Q. Did -- you mentioned a key to the  
 12/51/01 15 dump. To your knowledge, did the City of  
 12/51/03 16 Dayton have a key to the dump?  
 12/51/05 17 A. Not to my reco -- no.  
 12/51/07 18 Q. Do you have any idea where the  
 12/51/23 19 blacktop material came from?  
 12/51/26 20 A. No.  
 12/51/27 21 Q. No particular project, anything  
 12/51/28 22 like that?  
 12/51/30 23 A. I don't know.  
 12/51/38 24 Q. What time of day would these  
 12/51/39 25 deliveries be made that you witnessed?

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12/51/43 1 A. During the day.  
 12/51/43 2 Q. Mornings? Afternoons?  
 12/51/44 3 A. Mostly in the mornings.  
 12/51/50 4 Q. And when you say blacktop  
 12/51/52 5 material, what specifically are you talking  
 12/51/54 6 about?  
 12/51/54 7 A. Pieces of material maybe about  
 12/52/00 8 that thick (indicating), broken in many pieces.  
 12/52/02 9 Q. Asphalt?  
 12/52/04 10 A. Yes, uh-huh.  
 12/52/05 11 Q. Do you have any written records of  
 12/52/12 12 this?  
 12/52/12 13 A. No.  
 12/52/13 14 Q. Okay. Have you ever seen any  
 12/52/15 15 written records about it?  
 12/52/16 16 A. No.  
 12/52/14 17 Q. Is there a reason that you never  
 12/52/20 18 mentioned this in your first deposition in April  
 12/52/23 19 of 2012?  
 12/52/25 20 A. Is there a reason?  
 12/52/26 21 Q. Yes.  
 12/52/28 22 A. It didn't -- didn't register at  
 12/52/31 23 the time.  
 12/52/31 24 Q. And in all of the conversations  
 12/52/33 25 you've had with the attorneys for the

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12/52/35 1 plaintiff, the investigator for the plaintiff,  
 12/52/37 2 you never brought this up, did you?  
 12/52/40 3 A. No.  
 12/52/40 4 Q. Okay. And you've had quite a bit  
 12/52/46 5 of time to think about the South Dayton Dump,  
 12/52/48 6 correct?  
 12/52/49 7 A. Correct.  
 12/52/49 8 Q. And this is the first time, as we  
 12/52/52 9 sit here today, it's occurred to you that the  
 12/52/55 10 City of Dayton has dumped material there other  
 12/52/58 11 than salvaged vehicles?  
 12/53/00 12 A. No.  
 12/53/01 13 Q. What other times did it occur to  
 12/53/03 14 you?  
 12/53/04 15 A. I think it was after the  
 12/53/07 16 deposition in '12, because it brought back all  
 12/53/13 17 my memories, because it was -- I kept it kind  
 12/53/16 18 of behind me, and then when we went through  
 12/53/18 19 that deposition and a couple years after that,  
 12/53/21 20 I thought -- remembered other people that had  
 12/53/24 21 been at the dumpsite.  
 12/53/24 22 Q. But you never mentioned that to  
 12/53/28 23 anyone till -- until today right now, correct?  
 12/53/30 24 A. Correct. Well, no, I -- rephrase  
 12/53/32 25 the question, please?

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12:53:33 1 Q. You never mentioned about the City  
12:53:35 2 of Dayton dumping blacktop materials at the  
12:53:38 3 South Dayton landfill before today, between the  
12:53:40 4 time that you spoke with the plaintiffs'  
12:53:44 5 Attorney and investigator before the April,  
12:53:46 6 2012, deposition, and today, you never  
12:53:49 7 mentioned that to them, is that correct?

12:53:50 8 A. Yes, I did.

12:53:51 9 Q. Who?

12:53:52 10 A. Bill Walsh.

12:53:53 11 Q. And when was that?

12:53:54 12 A. I don't remember the month or the  
12:53:57 13 year, but it was in the time frame between '12  
12:54:01 14 and today.

12:54:11 15 Q. As far as the quantity of blacktop  
12:54:13 16 material, can you tell me the quantity of  
12:54:15 17 blacktop material that you say was dumped from  
12:54:17 18 City of Dayton vehicles?

12:54:20 19 A. It was regular dump trucks, single  
12:54:24 20 axle. I think -- I'm not sure of the yardage,  
12:54:34 21 but it would be a full up -- hanging up from  
12:54:37 22 the top.

12:54:44 23 Q. You can't estimate the yardage?

12:54:48 24 A. If I was making an assumption, I'd  
12:54:51 25 say maybe 12. Between 12 and 20 yards.

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12:54:54 1 Q. Total or per truck?

12:54:55 2 A. Per truck.

12:54:56 3 Q. And, again, the only time that you  
12:55:00 4 personally witnessed this was between 1968 and  
12:55:10 5 1970?

12:55:10 6 A. Correct.

12:55:21 7 Q. Did you fill out any slips for  
12:55:23 8 this any time you witnessed any of these trucks  
12:55:27 9 that came and dumped the blacktop material?

12:55:29 10 A. Not to my knowledge.

12:55:31 11 Q. Have you ever seen any slips for  
12:55:33 12 this?

12:55:33 13 A. I've seen slips, but I don't know  
12:55:36 14 whether it said anything about Dayton.

12:55:38 15 Q. Have you seen slips for the  
12:55:41 16 blacktop material that you claim you saw  
12:55:44 17 dumped --

12:55:44 18 A. No.

12:55:44 19 Q. -- by the City of Dayton?

12:55:51 20 A. No.

12:55:51 21 Q. Okay. And on each of these  
12:55:58 22 occasions when you watched, did you actually  
12:56:00 23 watch the material be dumped from the time the  
12:56:00 24 truck came in or what were you doing on these  
12:56:03 25 occasions?

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12:56:03 1 A. At that -- at the time, I was  
12:56:04 2 pretty much full-time on the dozer, and I would  
12:56:08 3 direct them where I wanted the load so I could  
12:56:11 4 push it over into the pit.

12:56:19 5 Q. Have we covered everything you  
12:56:24 6 know and personally witnessed about blacktop  
12:56:25 7 material that the City of Dayton you claim  
12:56:27 8 dumped at the South Dayton Dump?

12:56:28 9 A. Yes.

12:56:28 10 Q. Okay. Let's talk about concrete.  
12:56:33 11 Did you personally witness anyone from the City  
12:56:36 12 of Dayton dumping concrete at South Dayton  
12:56:39 13 Landfill?

12:56:39 14 A. Yes.

12:56:39 15 Q. Okay. On how many occasions?

12:56:41 16 A. It would pretty much repeat  
12:56:45 17 what -- the concrete -- or the blacktop, so 15  
12:56:49 18 times.

12:56:49 19 Q. Approximately 15 times. And each  
12:56:57 20 of these times was -- involved a separate  
12:57:00 21 truck?

12:57:02 22 A. Yes.

12:57:03 23 Q. And the only thing that was in the  
12:57:04 24 truck that you could tell being dumped was  
12:57:08 25 concrete?

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12:57:08 1 A. Some dirt.

12:57:11 2 Q. Anything else?

12:57:16 3 A. Sometimes it would be like paving  
12:57:21 4 blocks in mixed with them.

12:57:24 5 Q. And what would the paving blocks  
12:57:27 6 be made of?

12:57:28 7 A. Do you want what I assume they  
12:57:33 8 were or --

12:57:33 9 Q. Yes. What did you assume they  
12:57:36 10 were made of?

12:57:35 11 A. They were underneath all the  
12:57:36 12 streets in Dayton that were -- it was first --  
12:57:40 13 maybe the second layer that was underneath the  
12:57:44 14 blacktop and concrete in certain areas.

12:57:47 15 Q. What did you assume they were made  
12:57:48 16 of?

12:57:48 17 A. That they were layers -- the  
12:57:53 18 underlayment of some of the road.

12:57:54 19 Q. Concrete? Asphalt? Brick?

12:57:58 20 A. Well, like I said, the -- the  
12:58:00 21 brick, I believe, was -- I think there was  
12:58:01 22 dirt, brick, concrete and then asphalt or it  
12:58:07 23 might have been asphalt, then concrete.

12:58:10 24 Q. What I'm trying to figure out is,  
12:58:11 25 what do you believe the paving blocks were made

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12:58:13 1 of that you saw --

12:58:25 2 A. Oh, okay. I don't know what they

12:58:39 3 make brick out, but like a regular house brick.

12:58:52 4 Q. Red brick?

12:58:53 5 A. Yeah. Um-hum.

12:58:54 6 Q. You can't be any more specific

12:58:57 7 than that?

12:58:59 8 A. They were solid. Approximately

12:59:00 9 four inches by 12 inches. Maybe four inches

12:59:07 10 deep or thick.

12:59:08 11 Q. Did you ever see any slips for any

12:59:10 12 of the concrete, paving blocks or dirt?

12:59:13 13 A. No.

12:59:14 14 Q. Okay. Do you have any other

12:59:15 15 information on the concrete paving blocks and

12:59:16 16 dirt, other than what you've told me?

12:59:19 17 A. Sometimes there would be metal

12:59:18 18 reinforcing rods connected to the concrete.

12:59:19 19 Q. Can you tell me what percentage of

12:59:19 20 the time there would be the metal reinforcing

12:59:22 21 rods there?

12:59:22 22 A. Twenty percent.

12:59:23 23 Q. If you had to estimate the

12:59:24 24 quantity and yards of concrete that you

12:59:31 25 personally witnessed dumped at the South Dayton

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12:59:34 1 Landfill, what would you say?

12:59:36 2 A. In total?

12:59:36 3 Q. In total from the City of Dayton

12:59:39 4 trucks.

12:59:50 5 A. Maybe 300 yards.

12:59:58 6 Q. How many yards do you think the

13:00:00 7 truck could hold?

13:00:01 8 A. Well, that's what I was trying to

13:00:02 9 estimate. If a truck had, say, 12 -- I was

13:00:07 10 trying to estimate maybe ten to 12 yards, at

13:00:11 11 15, you're -- you know, I don't have -- I don't

13:00:13 12 have a calculator, but -- so what's ten --

13:00:20 13 300 -- what did I say?

13:00:21 14 Q. Three hundred, I believe.

13:00:23 15 A. How many yards did I say?

13:00:28 16 Q. In total, I thought you said 300.

13:00:28 17 A. Okay. Be close to that

13:00:31 18 guesstimate.

13:00:33 19 Q. Do you have any idea how many

13:00:32 20 yards the trucks could hold?

13:00:34 21 A. No, I'm not --

13:00:35 22 Q. Could it have been five yards a

13:00:37 23 truck?

13:00:37 24 A. I don't think so. I think it

13:00:39 25 would be more than that.

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13:00:39 1 Q. Between five and ten?

13:00:42 2 A. More. Between ten -- I'm not

13:00:47 3 familiar on the single axle and --

13:00:53 4 Q. Were these the same trucks that

13:00:54 5 you said you saw deposit the -- the blacktop

13:01:01 6 material?

13:01:01 7 A. Correct.

13:01:01 8 Q. And, again, these are single axle

13:01:04 9 trucks?

13:01:05 10 A. Yeah.

13:01:05 11 Q. Can you be any more specific about

13:01:07 12 that, the type?

13:01:08 13 A. They were dump trucks, and, like I

13:01:15 14 said, I believe they were yellow.

13:01:19 15 Q. Did you notice any emblems on them

13:01:21 16 or logos?

13:01:24 17 A. I believe it said the City of

13:01:32 18 Dayton.

13:01:32 19 Q. Were you --

13:01:32 20 A. They were --

13:01:32 21 Q. Go ahead.

13:01:34 22 A. They were just located on the

13:01:35 23 door, you know.

13:01:43 24 Q. And where -- and, again, you said

13:01:45 25 these were dumped in the pit.

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13:01:47 1 A. Correct.

13:01:51 2 Q. I'm going to go ahead -- what

13:01:53 3 exhibit number are we on now?

13:01:53 4 (Thereupon, Defendants' Exhibit

13:01:53 5 Number 4, South Dayton Dump and Landfill site map,

13:02:17 6 was marked for purposes of identification.)

13:02:17 7 BY MR. MUSTO:

13:02:17 8 Q. Mr. Grillot, I'm going to hand you

13:02:19 9 what was previously marked as Exhibit 2 in your

13:02:22 10 April, 2012, deposition. It's now currently

13:02:25 11 marked Defendants' Exhibit 4. Do you have that

13:02:29 12 in front of you?

13:02:31 13 A. Yes.

13:02:31 14 Q. Can you tell me what that is?

13:02:34 15 A. It's the map of the area of South

13:02:44 16 Dayton Dump -- or Broadway Sand and -- or

13:02:48 17 Broadway Dump and Broadway Sand and Gravel.

13:02:47 18 Q. Does that picture show the entire

13:02:49 19 area, Exhibit 4, that was the South Dayton

13:02:53 20 Landfill?

13:02:53 21 A. Correct.

13:02:53 22 Q. Okay. And could you show me where

13:02:57 23 the pit was where the concrete and the blacktop

13:03:02 24 material was deposited?

13:03:07 25 A. Be right -- this -- this isn't

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13:03:20 1 right because the pond was more down -- this --  
 13:03:22 2 well, maybe not, but in this area right here  
 13:03:22 3 (indicating).  
 13:03:26 4 MR. MUSTO: Okay. So let the record  
 13:03:28 5 reflect he's pointing to an area that is circled,  
 13:03:31 6 it looks like black ink. It has pit written  
 13:03:38 7 there, and inside the circle is also a large  
 13:03:41 8 pond.  
 13:04:00 9 BY MR. MUSTO:  
 13:04:00 10 Q. Have we covered everything  
 13:04:02 11 involving the concrete, the paving blocks and  
 13:04:08 12 the dirt --  
 13:04:08 13 A. Correct.  
 13:04:08 14 Q. -- that you're aware of?  
 13:04:08 15 A. No, not the dirt. Well, if it was  
 13:04:12 16 mixed in with the other, yes.  
 13:04:14 17 Q. Okay. That brings us then to the  
 13:04:20 18 third category, dirt. Can you tell me what you  
 13:04:24 19 personally witnessed that you believe came from  
 13:04:28 20 the City of Dayton, that dirt that was  
 13:04:28 21 deposited at the South Dayton Landfill?  
 13:04:32 22 A. Yes. The dirt was deposited close  
 13:04:35 23 to the third level where -- so things could be  
 13:04:44 24 covered up. We used the virgin earth not mixed  
 13:04:50 25 with anything, it would go there so it could

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13:04:54 1 cover the debris that needed to be --  
 13:05:00 2 eventually we'd pitch toward the pit.  
 13:05:02 3 Q. Was -- the dirt that you claim was  
 13:05:04 4 deposited at the South Dayton Landfill by the  
 13:05:06 5 City of Dayton, was it anything else but dirt?  
 13:05:11 6 Could you see any impurities or  
 13:05:12 7 anything in it?  
 13:05:14 8 A. There might be a few of those  
 13:05:15 9 bricks that I told you about. Some -- a little  
 13:05:23 10 bit of concrete. Maybe a little bit of  
 13:05:25 11 asphalt, but those particular -- if they  
 13:05:28 12 were -- it looked like pretty clear indication  
 13:05:31 13 they were good for, you know, covering then  
 13:05:35 14 we'd -- that's where it would go.  
 13:05:37 15 Q. You didn't notice anything that  
 13:05:40 16 you believed to be chemicals in there, anything  
 13:05:43 17 that you -- trash or anything in the dirt that  
 13:05:44 18 you're aware of?  
 13:05:48 19 A. I -- I mentioned, I think,  
 13:05:51 20 yesterday in my deposition, that I was only  
 13:05:53 21 allowed to push debris in the pit.  
 13:05:54 22 My Uncle Alcine -- because there  
 13:05:57 23 was a -- an incline going down into the pit, he  
 13:06:02 24 didn't want his dozer so close to the edge, so  
 13:06:05 25 I wasn't allow to do that, so --

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13:06:07 1 Q. So is your answer to my question  
 13:06:09 2 no?  
 13:06:09 3 A. Yes.  
 13:06:09 4 Q. Okay. And about how much dirt do  
 13:06:14 5 you believe that you personally witnessed the  
 13:06:17 6 City of Dayton deposit in South Dayton  
 13:06:22 7 Landfill?  
 13:06:22 8 A. I think I remember -- I think  
 13:06:25 9 they're 30 yard dump trucks, now that I'm  
 13:06:27 10 thinking about it, and it's the same dump truck  
 13:06:31 11 we talked about previously, but they were full  
 13:06:35 12 dump trucks, loads.  
 13:06:39 13 Q. So how many full dump truck loads  
 13:06:42 14 of dirt do you claim the City of Dayton  
 13:06:44 15 deposited -- that you witnessed deposited at  
 13:06:47 16 the South Dayton Landfill?  
 13:06:48 17 A. Not near as many as the other  
 13:06:51 18 site. I'd probably say ten.  
 13:06:54 19 Q. And earlier you testified that you  
 13:06:58 20 thought that the single axle dump trucks the  
 13:07:01 21 city used could hold between ten and 12 yards  
 13:07:04 22 of material?  
 13:07:04 23 A. Um-hum.  
 13:07:05 24 Q. Is that correct?  
 13:07:06 25 A. Yes.

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13:07:07 1 Q. Okay. Now you're not sure of  
 13:07:10 2 that?  
 13:07:12 3 A. Could you rephrase?  
 13:07:14 4 Q. Are -- you just said that you  
 13:07:16 5 thought they could hold 30 yards.  
 13:07:17 6 A. Yeah, I thought -- and I'm  
 13:07:20 7 debating whether -- in my mind, I'm trying to  
 13:07:23 8 think if -- I don't know what -- a tandem, but  
 13:07:26 9 there's three sets of tires, and it might have  
 13:07:30 10 been what they call a dually truck where  
 13:07:32 11 there's two -- and then the bigger trucks that  
 13:07:35 12 came later, I think as they were purchased  
 13:07:37 13 were -- I don't know what they -- four -- the  
 13:07:41 14 set of tires, I'm not sure.  
 13:07:42 15 Q. So as we sit here today, you don't  
 13:07:44 16 know how much -- how many yards of material the  
 13:07:46 17 single axle dump trucks would hold?  
 13:07:48 18 A. No.  
 13:07:49 19 Q. Okay. But you believe  
 13:07:51 20 approximately ten single axle dump truck loads  
 13:07:54 21 of dirt was deposited at the South Dayton  
 13:07:57 22 Landfill by the City of Dayton, correct?  
 13:07:58 23 A. Correct.  
 13:07:59 24 Q. And that was in the 1968 to 1970  
 13:08:04 25 time period as well?

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13:08:04 1 A. Um-hum.  
 13:08:05 2 Q. Correct?  
 13:08:05 3 A. Yes.  
 13:08:06 4 Q. And you have no knowledge of any  
 13:08:08 5 other dirt in any other time period from the  
 13:08:10 6 City of Dayton being dumped at the South Dayton  
 13:08:12 7 Landfill, correct?  
 13:08:13 8 A. No.  
 13:08:13 9 Q. All right. That brings us to  
 13:08:24 10 barrels.  
 13:08:26 11 A. Yes.  
 13:08:26 12 Q. Could you tell me about the  
 13:08:30 13 barrels?  
 13:08:32 14 A. The barrels were 55-gallon drums  
 13:08:34 15 that had their lids cut off possibly from  
 13:08:40 16 what -- you know, I mentioned earlier in  
 13:08:43 17 yesterday's deposition they were painted orange  
 13:08:53 18 and they'd be very bent up.  
 13:08:55 19 Q. Okay. The -- the 55-gallon orange  
 13:09:00 20 drums, did you witness them come to the  
 13:09:00 21 landfill?  
 13:09:04 22 A. Yes.  
 13:09:04 23 Q. Okay. On how many occasions?  
 13:09:09 24 A. At that particular time, two or  
 13:09:10 25 three.

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13:09:10 1 Q. Two, three separate occasions?  
 13:09:12 2 A. (No response.)  
 13:09:12 3 Q. And when -- what time period was  
 13:09:12 4 it?  
 13:09:12 5 (Thereupon, the court reporter  
 13:09:12 6 interrupted the proceedings.)  
 13:09:12 7 BY MR. MUSTO:  
 13:09:12 8 Q. I'm sorry. How many times did you  
 13:09:12 9 witness the 55-gallon orange drums, painted  
 13:09:12 10 orange drums, come to the South Dayton  
 13:09:12 11 Landfill?  
 13:09:12 12 A. My answer was maybe two or three  
 13:09:12 13 barrels, okay?  
 13:09:12 14 Q. Oh, you only saw two or three  
 13:09:12 15 barrels be deposited?  
 13:09:12 16 A. Right, um-hum.  
 13:09:12 17 Q. Okay. Total?  
 13:09:12 18 A. When you said occasions, I --  
 13:09:12 19 yeah, total.  
 13:09:12 20 Q. So one on each occasion?  
 13:09:12 21 A. They didn't come, you know, very  
 13:09:12 22 often, because -- they just didn't come very  
 13:09:12 23 often, no.  
 13:09:12 24 Q. And on each occasion, how did --  
 13:09:12 25 what did you see when you saw them delivered?

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13:10:22 1 What kind of truck delivered them?  
 13:10:24 2 A. They were mixed in with the dump  
 13:10:27 3 truck, concrete or the asphalt.  
 13:10:35 4 Q. And they were metal barrels?  
 13:10:39 5 A. Yes, um-hum. Metal drums.  
 13:10:41 6 Q. And they were empty, correct?  
 13:10:42 7 A. Yes.  
 13:10:43 8 Q. And how were those disposed of, if  
 13:10:49 9 you know?  
 13:10:51 10 A. They were drug off to the side and  
 13:10:54 11 picked up for salvage.  
 13:11:04 12 Q. So did they leave the landfill  
 13:11:06 13 then? Did someone take them off the landfill?  
 13:11:09 14 A. Yes, um-hum.  
 13:11:09 15 Q. Okay. So you're not aware of any  
 13:11:13 16 orange barrels or drums from the City of Dayton  
 13:11:14 17 being actually buried at the South Dayton Dump,  
 13:11:20 18 correct?  
 13:11:20 19 A. No.  
 13:11:21 20 Q. Have we covered everything on the  
 13:11:30 21 barrels?  
 13:11:30 22 A. Yes, um-hum.  
 13:11:32 23 Q. Let's talk about guardrails.  
 13:11:40 24 A. Do you want me to describe them or  
 13:11:42 25 just tell you how many times?

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13:11:42 1 Q. Just tell me about the guardrails  
 13:11:44 2 that you believe the City of Dayton deposited  
 13:11:44 3 at South Dayton Dump.  
 13:11:47 4 A. They were pretty bent up. They  
 13:11:51 5 were steel. Painted like a silver-ish color.  
 13:11:54 6 Had holes. Sometimes bolts would be and  
 13:11:58 7 sometimes maybe a short piece of telephone pole  
 13:12:02 8 connected to them, and I just saw maybe one  
 13:12:09 9 guardrail the whole time that I was there.  
 13:12:14 10 Q. And did you see that guardrail  
 13:12:17 11 arrive at the site?  
 13:12:19 12 A. Yes, um-hum.  
 13:12:20 13 Q. And what would it arrive in?  
 13:12:23 14 A. The same dump trucks.  
 13:12:26 15 Q. In one of the loads that brought  
 13:12:30 16 the dirt or the concrete?  
 13:12:31 17 A. Correct.  
 13:12:32 18 Q. Okay.  
 13:12:33 19 A. Um-hum.  
 13:12:35 20 Q. And what happened to that  
 13:12:36 21 guardrail?  
 13:12:38 22 A. I had to get off the Dumpster and  
 13:12:40 23 shut off and then go and drag it off to the  
 13:12:43 24 side so the -- it could be used for salvage.  
 13:12:49 25 Q. So was that then taken off the

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13:12:51 1 South Dayton Dump site?  
 13:12:52 2 A. Yes.  
 13:12:52 3 Q. It was not disposed of there,  
 13:12:54 4 correct?  
 13:12:54 5 A. No.  
 13:12:55 6 Q. Okay. Have we covered everything  
 13:13:00 7 that you have any knowledge of that you believe  
 13:13:04 8 the City of Dayton disposed of at the South  
 13:13:09 9 Dayton Landfill other than the salvaged  
 13:13:12 10 automobiles?  
 13:13:12 11 A. Correct.  
 13:13:13 12 Q. All right. You had testified  
 13:13:21 13 before that you had worked for Doyle Roberson?  
 13:13:29 14 A. Right.  
 13:13:29 15 Q. Is that correct?  
 13:13:29 16 A. Yes.  
 13:13:31 17 Q. Okay. And I believe the testimony  
 13:13:33 18 was that you worked for him for a few months  
 13:13:36 19 around your 16th birthday?  
 13:13:39 20 A. Yes.  
 13:13:41 21 Q. Other than working for Doyle --  
 13:13:44 22 let me rephrase the question. Are you aware of  
 13:13:47 23 the City of Dayton salvaging or disposing of  
 13:13:49 24 any vehicles at the South Dayton Dump other  
 13:13:52 25 than through Doyle Roberson?

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13:13:55 1 A. Other than through Doyle Roberson?  
 13:13:57 2 Q. Yes.  
 13:13:58 3 A. No.  
 13:13:59 4 Q. Okay. Just so I'm clear,  
 13:14:07 5 approximately how many months did you work for  
 13:14:10 6 Doyle Roberson?  
 13:14:12 7 A. Approximately a month, maybe two  
 13:14:18 8 months.  
 13:14:18 9 Q. And you said that was around your  
 13:14:23 10 16th birthday?  
 13:14:23 11 A. Yes.  
 13:14:23 12 Q. So that would be somewhere 1968,  
 13:14:26 13 1969?  
 13:14:27 14 A. Correct, because that's when I  
 13:14:31 15 finished school and Doyle signed my -- I had to  
 13:14:33 16 have a release form and Doyle -- and signed it  
 13:14:35 17 so I could quit school, so --  
 13:14:38 18 Q. So you were born in November of  
 13:14:41 19 1952?  
 13:14:41 20 A. Um-hum.  
 13:14:43 21 Q. So you would have turned 16 in  
 13:14:46 22 November of 1968, correct?  
 13:14:47 23 A. Yeah.  
 13:14:47 24 Q. Would you have worked with Doyle  
 13:14:51 25 immediately when you turned 16 or can you tell

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13:14:52 1 me the time of year that it would have been  
 13:14:55 2 that you worked for Doyle?  
 13:14:57 3 A. I think it was the latter part of  
 13:14:59 4 winter, beginning of spring.  
 13:15:02 5 Q. Sometime around February, March?  
 13:15:04 6 A. Yeah.  
 13:15:04 7 Q. So that would be 1969?  
 13:15:08 8 A. Yeah.  
 13:15:09 9 Q. Other than those two months in  
 13:15:16 10 around 1969, did you ever perform any services  
 13:15:20 11 or do any work involving the auto salvage  
 13:15:24 12 yard or Doyle Roberson at the South Dayton  
 13:15:27 13 Landfill?  
 13:15:27 14 A. No.  
 13:15:27 15 Q. So your only knowledge, personal  
 13:15:32 16 knowledge, that you have about Doyle Roberson's  
 13:15:35 17 auto salvage yard comes from those two months  
 13:15:38 18 that you worked there, correct?  
 13:15:39 19 A. Correct, um-hum.  
 13:15:40 20 Q. All right. Let's talk about --  
 13:15:52 21 did he just call it Doyle's Auto Parts or what  
 13:15:55 22 was the name of it?  
 13:15:58 23 A. Doyle's Auto Parts.  
 13:15:58 24 Q. Let's talk about the business that  
 13:16:00 25 he had there. Could you describe to me

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13:16:01 1 generally what the business involved?  
 13:16:05 2 A. It was a -- a salvage yard for  
 13:16:11 3 vehicles, which would then have been turned  
 13:16:16 4 into a salvage yard where parts would be taken  
 13:16:19 5 off of the vehicles as they came in, and then  
 13:16:24 6 he sold some new auto parts.  
 13:16:30 7 Then he would empty the fluids out  
 13:16:37 8 of them and then burn them and then they would  
 13:16:39 9 be picked up for salvage.  
 13:16:42 10 Q. Okay. Let me go over the  
 13:16:47 11 categories and you tell me if there's any other  
 13:16:49 12 business that Mr. Roberson did at the salvage  
 13:16:51 13 yard, okay?  
 13:16:52 14 A. Okay.  
 13:16:52 15 Q. You said he took in old vehicles,  
 13:16:56 16 correct?  
 13:16:56 17 A. Correct.  
 13:16:57 18 Q. He sold new auto parts?  
 13:16:59 19 A. Yes.  
 13:17:00 20 Q. He allowed people to come in and  
 13:17:03 21 salvage parts from the vehicles that were  
 13:17:06 22 brought to his yard, correct?  
 13:17:08 23 A. That's not correct.  
 13:17:09 24 Q. Okay. Correct me. What --  
 13:17:12 25 A. He would send -- he had hired

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13:17:13 1 several gentlemen to go out and take the parts  
 13:17:16 2 off.  
 13:17:17 3 Q. Okay. So someone would come and  
 13:17:19 4 say I need this part for my car, and then one  
 13:17:22 5 of his employees would go out there and take  
 13:17:28 6 the part off?  
 13:17:29 7 A. Right. Correct.  
 13:17:29 8 Q. So let's go back to my list. He  
 13:17:29 9 would take in old vehicles, correct?  
 13:17:30 10 A. Yes.  
 13:17:30 11 Q. He would salvage parts off those  
 13:17:34 12 vehicles?  
 13:17:34 13 A. Correct.  
 13:17:35 14 Q. He would sell new auto parts?  
 13:17:38 15 A. Correct.  
 13:17:38 16 Q. And then he would dispose of the  
 13:17:44 17 vehicles by emptying the fluids out and burning  
 13:17:48 18 them?  
 13:17:49 19 A. Correct.  
 13:17:49 20 Q. Anything else that he did on that  
 13:17:51 21 property?  
 13:17:52 22 A. I mentioned they were then  
 13:17:54 23 scrapped.  
 13:17:54 24 Q. Okay. And when you say they were  
 13:17:59 25 scrapped, then would they be taken to a

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13:18:02 1 different location or tell me about that?  
 13:18:13 2 A. I believe that they went to  
 13:18:17 3 Franklin Iron -- I mean -- yeah, Franklin Iron  
 13:18:23 4 and Metal.  
 13:18:23 5 Q. And when you say the scrap,  
 13:18:25 6 someone from Franklin Iron and Metal would come  
 13:18:28 7 and take them off the dumpsite?  
 13:18:29 8 A. No, he would -- he would load like  
 13:18:34 9 several onto a flatbed. He tried flattening  
 13:18:37 10 them as much as he could. They didn't have a  
 13:18:37 11 crusher at that time.  
 13:18:37 12 And he'd flatten as many as he  
 13:18:40 13 could and then stack them, chain them and send  
 13:18:43 14 them off to -- to be salvaged.  
 13:18:46 15 Q. Have we covered everything that  
 13:18:50 16 Mr. Roberson's Doyle Auto Parts did at the  
 13:18:55 17 South Dayton Landfill?  
 13:18:56 18 A. Yes.  
 13:18:56 19 Q. Is there anything else that they  
 13:19:00 20 did as part of his business?  
 13:19:01 21 A. That he did as a operation?  
 13:19:02 22 Q. Yeah, as part of Doyle's Auto  
 13:19:03 23 Parts.  
 13:19:03 24 A. Yes, that was it.  
 13:19:04 25 Q. Okay. What did you do -- tell me

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13:19:09 1 the jobs that you performed during the two  
 13:19:11 2 months that you worked there.  
 13:19:12 3 A. I did office work.  
 13:19:18 4 Q. Anything else?  
 13:19:22 5 A. Sometimes I'd run out to see if  
 13:19:26 6 they -- if he had the certain vehicle that the  
 13:19:27 7 individual needed and see if the -- the car was  
 13:19:33 8 still there or whatever.  
 13:19:36 9 Q. Anything else?  
 13:19:37 10 A. No.  
 13:19:38 11 Q. Were you involved in emptying  
 13:19:41 12 fluids from the vehicles?  
 13:19:42 13 A. No.  
 13:19:44 14 Q. Were you involved in burning the  
 13:19:46 15 vehicles?  
 13:19:46 16 A. No.  
 13:19:47 17 Q. Were you involved in any fashion  
 13:19:49 18 in assisting the vehicles once burned to be  
 13:19:54 19 loaded up and taking them to Franklin Iron and  
 13:19:54 20 Metal?  
 13:19:57 21 A. No.  
 13:19:57 22 Q. Let's talk about the office work  
 13:20:03 23 that you did. Tell me about it.  
 13:20:07 24 A. I was to take the slips that came  
 13:20:12 25 in with the tow truck driver, they were like

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13:20:17 1 cards, describing the vehicle and maybe the VIN  
 13:20:20 2 number on it.  
 13:20:21 3 Then I would have to take piles of  
 13:20:26 4 either the yellow title or the original  
 13:20:30 5 duplicate and staple it onto the cards.  
 13:20:39 6 Q. Anything else that you did?  
 13:20:41 7 A. No.  
 13:20:42 8 Q. What was on these slips?  
 13:20:46 9 A. I mentioned that -- the  
 13:20:52 10 description of the vehicle, color of the  
 13:20:55 11 vehicle, the mileage, the VIN number, and what  
 13:20:59 12 make and model.  
 13:21:00 13 Q. Anything else?  
 13:21:01 14 A. No.  
 13:21:02 15 Q. And then where -- you would get  
 13:21:12 16 the slips directly from the drivers as they  
 13:21:14 17 brought the cars in?  
 13:21:16 18 A. I didn't.  
 13:21:17 19 Q. Who did?  
 13:21:19 20 A. They would be -- there was a --  
 13:21:23 21 like a slot in the door and they would be  
 13:21:29 22 dropped there and then Doyle would get them in  
 13:21:32 23 the morning and go over them and then he'd hand  
 13:21:35 24 them to me.  
 13:21:36 25 Q. Okay. So that explains how you

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13:21:40 1 got the slips. How did you get the yellow  
 13:21:43 2 title, original or duplicate?  
 13:21:46 3 A. Well, between the time before it  
 13:21:53 4 was handed to me, I -- I think he made phone  
 13:21:57 5 calls or -- or sent in the slips or duplicates  
 13:22:00 6 or whatever to -- I don't know where.  
 13:22:05 7 Q. So you weren't involved in getting  
 13:22:07 8 the yellow slips and the titles, correct?  
 13:22:09 9 A. No. No.  
 13:22:09 10 Q. And so you never even saw -- did  
 13:22:18 11 you even see the cars come in?  
 13:22:19 12 A. On -- occasionally, yes.  
 13:22:21 13 Q. But most of the time you were in  
 13:22:23 14 the office, correct?  
 13:22:24 15 A. Correct.  
 13:22:25 16 Q. Did the office have windows that  
 13:22:28 17 you would look out to see the vehicles come  
 13:22:29 18 in?  
 13:22:29 19 A. Oh, yeah. Um-hum.  
 13:22:32 20 Q. So the only thing that you would  
 13:22:41 21 do then would be just to match up the slip with  
 13:22:44 22 the title and staple it?  
 13:22:46 23 A. Um-hum.  
 13:22:46 24 Q. Is that correct?  
 13:22:47 25 A. Yes.

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13:22:47 1 Q. All right. In that time period,  
 13:22:57 2 the two months that you worked for Doyle's Auto  
 13:23:03 3 Parts, did you ever see a City of Dayton  
 13:23:05 4 vehicle tow in another vehicle?  
 13:23:09 5 A. No.  
 13:23:15 6 Q. Did you ever see tow companies  
 13:23:18 7 bring vehicles in?  
 13:23:20 8 A. Yes.  
 13:23:20 9 Q. Can you remember the names of any  
 13:23:23 10 of the tow companies?  
 13:23:25 11 A. The one I remember mostly was  
 13:23:26 12 Sandy's Towing Company.  
 13:23:28 13 Q. Okay. Any other tow companies  
 13:23:39 14 that you can recall towing in vehicles to  
 13:23:43 15 Doyle's Auto Parts?  
 13:23:47 16 A. Sometimes I saw like a Shell sign  
 13:23:50 17 or Marathon.  
 13:24:00 18 Q. As far as the titles, would you  
 13:24:05 19 ever read the titles other than just to get the  
 13:24:09 20 information to match it with the slip?  
 13:24:15 21 A. No.  
 13:24:18 22 Q. So the only thing you were  
 13:24:18 23 looking -- or what exactly were you looking for  
 13:24:22 24 on the title then?  
 13:24:24 25 A. Make, model, and the VIN number

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13:24:26 1 had to match up to the slip.  
 13:24:29 2 Q. Those are the only things that you  
 13:24:30 3 were looking for on the title, correct?  
 13:24:32 4 A. Correct.  
 13:24:33 5 Q. You mentioned that the vehicles  
 13:24:44 6 came in to be salvaged. What sources -- he had  
 13:24:51 7 tow trucks that would bring them, correct?  
 13:24:51 8 A. Correct.  
 13:24:53 9 Q. And would private citizens ever  
 13:24:55 10 drive vehicles in?  
 13:24:58 11 A. Pardon me?  
 13:24:59 12 Q. Would private citizens -- did  
 13:25:00 13 anyone ever drive in a vehicle to be salvaged?  
 13:25:03 14 A. Oh, yeah. Um-hum.  
 13:25:03 15 Q. Okay. And they just -- but you  
 13:25:04 16 wouldn't deal with that person --  
 13:25:05 17 A. No.  
 13:25:06 18 Q. -- Doyle would, correct?  
 13:25:07 19 A. Yeah.  
 13:25:09 20 Q. Okay. Who all worked at Doyle's  
 13:25:11 21 Auto Parts while you worked there in the two  
 13:25:13 22 month time? Can you tell me the number of  
 13:25:15 23 employees he had?  
 13:25:16 24 A. Number, around four or six.  
 13:25:20 25 Q. Four to six?

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13:25:21 1 A. Um-hum.  
 13:25:22 2 Q. Is that including you?  
 13:25:25 3 A. No.  
 13:25:26 4 Q. So it would be five to seven then,  
 13:25:29 5 including you?  
 13:25:30 6 A. Yeah.  
 13:25:33 7 Q. And you described your job to me.  
 13:25:39 8 What were the other jobs?  
 13:25:39 9 A. The other jobs?  
 13:25:39 10 Q. At Doyle's Auto Parts. What did  
 13:25:43 11 those other four to six people do?  
 13:25:46 12 A. Two of them were allotted behind  
 13:25:46 13 the counter to help customers come in to  
 13:25:50 14 purchase parts, and the other four would, if  
 13:25:54 15 they were all together, were sent out to take  
 13:25:57 16 the parts off.  
 13:26:11 17 Q. Once you matched the slips with  
 13:26:16 18 the title, what did you do with them?  
 13:26:17 19 A. Put them in -- there was two bins  
 13:26:20 20 that I would put them in.  
 13:26:22 21 Q. Were there any names on the bins  
 13:26:24 22 or purpose for having two separate bins?  
 13:26:26 23 A. Well, like I mentioned a few  
 13:26:28 24 minutes ago, if it had a white title, it went  
 13:26:32 25 in the white pile. If it had a yellow title,

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13:26:38 1 it went in the yellow -- yellow pile.

13:26:37 2 Q. Do you know what the difference,

13:26:39 3 other than the color, was between the white

13:26:41 4 title and the yellow title?

13:26:42 5 A. Yes, the white was one that had --

13:26:48 6 what would I call it, a lien or a bank -- you

13:26:51 7 know, like somebody got a loan out, they kept

13:26:54 8 the -- the original title.

13:26:54 9 So we'd have to send it to

13:26:58 10 whatever bank it was and then get, you know,

13:27:03 11 the yellow -- yellow thing.

13:27:04 12 It had to have a yellow title in

13:27:08 13 order to be any shape, way or form picked on,

13:27:13 14 I'll say.

13:27:14 15 Q. Other than putting it in the white

13:27:17 16 bin or the yellow bin, did you have anything

13:27:18 17 else other to do with the title or the slip?

13:27:22 18 A. No.

13:27:24 19 Q. Okay. Now, you mentioned in your

13:27:27 20 testimony previously that you'd get the cars

13:27:30 21 coming in, correct?

13:27:32 22 A. Correct.

13:27:33 23 Q. And then at some point in time,

13:27:35 24 they'd be on the lot for a certain period of

13:27:38 25 time and then they'd be salvaged by having them

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13:27:41 1 emptied, burned and then they'd go to Franklin

13:27:45 2 Iron and Metal, correct?

13:27:45 3 A. Correct.

13:27:45 4 Q. Okay. How long would it be

13:27:47 5 between the time that a car came in to the time

13:27:51 6 that they would be salvaged in that fashion?

13:27:54 7 A. I think they were given 30 days or

13:27:57 8 90 days, one of the two. I can't remember.

13:27:59 9 Q. And as we sit here today, you have

13:28:05 10 no recollection whether it was 30 or 90 days,

13:28:07 11 correct?

13:28:07 12 A. No.

13:28:08 13 Q. Is that correct?

13:28:09 14 A. Correct.

13:28:10 15 Q. All right. And the vehicles that

13:28:37 16 would come in by tow truck or private citizen

13:28:41 17 to Doyle's salvage yard, sometimes the entire

13:28:44 18 vehicle would then be purchased and go out,

13:28:48 19 correct?

13:28:50 20 A. Not to my recollection.

13:28:52 21 Q. Okay. That could happen, you

13:28:54 22 just -- in the two months you were there, you

13:28:58 23 just don't recall it happening, correct?

13:29:00 24 A. It could happen.

13:29:05 25 Q. And you weren't involved in

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13:29:17 1 interacting with people that brought the cars

13:29:19 2 in, correct?

13:29:20 3 MR. ROMINE: Asked and answered.

13:29:22 4 THE WITNESS: No.

13:29:24 5 BY MR. MUSTO:

13:29:24 6 Q. So you have no personal knowledge

13:29:24 7 where any particular vehicle came from that was

13:29:29 8 brought to Doyle's Auto Parts, correct?

13:29:33 9 A. Correct.

13:29:38 10 Q. And you can't say that -- in

13:29:39 11 the two months that you were there that any

13:29:41 12 vehicle was brought by the City of Dayton,

13:29:44 13 correct, because you have no personal knowledge

13:29:46 14 of it?

13:29:52 15 A. I think on the slip that I would

13:29:59 16 staple to the titles had the location it was

13:30:02 17 picked up at.

13:30:05 18 Q. And what would that say?

13:30:08 19 A. Well, it would say Wyoming Street

13:30:12 20 or Second and Perry.

13:30:18 21 Q. But that wasn't something that you

13:30:19 22 were specifically looking for when you looked

13:30:21 23 at the slips, correct?

13:30:22 24 A. No.

13:30:25 25 Q. The only thing that you were

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13:30:24 1 looking for was to match the model and make of

13:30:26 2 the vehicle with the title, correct, and the

13:30:30 3 VIN number?

13:30:30 4 MR. ROMINE: Asked and answered.

13:30:33 5 THE WITNESS: And the VIN number.

13:30:37 6 BY MR. MUSTO:

13:30:42 7 Q. Okay. Do you know how many cars

13:30:44 8 were salvaged during the time period you were

13:30:48 9 at Doyle's Auto Parts?

13:30:50 10 And when I'm talking about

13:30:51 11 salvaged was, meaning that the fluids were

13:30:55 12 leaked out and that it was burned?

13:30:55 13 A. You want a guesstimate?

13:30:58 14 Q. Yes.

13:30:59 15 A. A couple hundred.

13:31:06 16 Q. Do you have any personal knowledge

13:31:09 17 concerning where those vehicles came from?

13:31:14 18 A. Personal knowledge?

13:31:19 19 Q. Yes.

13:31:16 20 A. I just mentioned that -- on that

13:31:18 21 slip would have, but no one would tell me, no.

13:31:22 22 Q. You have no personal knowledge of

13:31:24 23 where those vehicles came from, correct?

13:31:26 24 A. No. Correct.

13:31:28 25 Q. All right. How big -- how much

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13:31:41 1 area did Doyle's Auto Parts take up?  
 13:31:46 2 A. In those years?  
 13:31:47 3 Q. Yes, the time that you were there,  
 13:31:49 4 because that's the only time you have any  
 13:31:51 5 knowledge about it, correct?  
 13:31:51 6 A. No.  
 13:31:53 7 Q. Okay.  
 13:31:54 8 A. No.  
 13:31:54 9 Q. Well, let's go back. The time  
 13:31:56 10 that you were there, working there, how large  
 13:31:58 11 was Doyle's Auto Parts?  
 13:32:00 12 A. I would say it engulfed a third of  
 13:32:04 13 the landfill area.  
 13:32:07 14 Q. I'm going to hand you back what's  
 13:32:14 15 been marked as Plaintiffs' Exhibit 4.  
 13:32:17 16 A. Excuse me. Could I go to the  
 13:32:19 17 bathroom?  
 13:32:21 18 Q. Oh, sure. Go ahead.  
 13:32:22 19 MR. MUSTO: We'll go off.  
 13:32:23 20 (Pause in proceedings.)  
 13:32:43 21 MR. MUSTO: Back on the record.  
 13:32:43 22 BY MR. MUSTO:  
 13:32:47 23 Q. Mr. Grillot, what is the basis of  
 13:32:49 24 your belief that the City of Dayton deposited  
 13:32:55 25 vehicles at the South Dayton Dump?

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13:32:58 1 A. From the -- the slips.  
 13:33:03 2 Q. Anything else?  
 13:33:06 3 A. No. Well, may I say that it said  
 13:33:14 4 Dayton Police Department. I don't know if  
 13:33:16 5 that -- I guess that's the City of Dayton,  
 13:33:17 6 so --  
 13:33:18 7 Q. What said Dayton Police  
 13:33:19 8 Department?  
 13:33:19 9 A. The slips.  
 13:33:20 10 Q. Anything else?  
 13:33:24 11 A. No.  
 13:33:24 12 Q. As we sit here today -- and,  
 13:33:43 13 again, you said when you were looking at the  
 13:33:45 14 slips, you weren't paying attention. The only  
 13:33:47 15 things that you were paying attention to were  
 13:33:49 16 the make, model and VIN number of the slip,  
 13:33:51 17 correct?  
 13:33:52 18 A. Correct, um-hum.  
 13:33:53 19 Q. You weren't specifically looking  
 13:33:55 20 for where they came from, correct?  
 13:33:57 21 A. No, because all the slips would  
 13:33:59 22 come under the heading of the Dayton Police  
 13:34:02 23 Department.  
 13:34:03 24 Q. Every slip that came into you?  
 13:34:05 25 A. Um-hum.

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13:34:06 1 Q. You testified yesterday that you  
 13:34:08 2 got vehicles from Kettering, Oakwood and other  
 13:34:12 3 municipalities, right?  
 13:34:13 4 A. Right, but they -- I don't -- I  
 13:34:19 5 don't remember how at this particular time. My  
 13:34:22 6 recollection is most all of them came from the  
 13:34:25 7 Dayton Police Department.  
 13:34:31 8 Q. What specifically would the slip  
 13:34:33 9 say?  
 13:34:34 10 A. Well, the heading with black  
 13:34:37 11 letters at the very top of it would say Dayton  
 13:34:40 12 Police Department, small letters. Then it  
 13:34:42 13 would have lines with make, model, serial  
 13:34:44 14 number, VIN number. Did I say color? Color.  
 13:34:53 15 Then it had like location, and  
 13:34:56 16 then it would give the location, and I think  
 13:34:59 17 it -- if it didn't have the police officer's  
 13:35:04 18 name, it would just have a signature on it.  
 13:35:13 19 Oh, there was a time, the time  
 13:35:15 20 that -- that it was either picked up or  
 13:35:18 21 delivered to Doyle's. I can't -- I don't know,  
 13:35:24 22 and the date, the date -- the date was up at  
 13:35:29 23 the upper right-hand corner.  
 13:35:30 24 Q. You said the only slips that you  
 13:35:41 25 ever dealt with said City of Dayton on them?

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13:35:43 1 A. Yes, um-hum.  
 13:35:46 2 Q. And if there were slips from any  
 13:35:53 3 other municipalities or government agencies,  
 13:35:56 4 you just don't recall them or you never  
 13:35:58 5 received any?  
 13:35:59 6 A. Well, some of them that I got just  
 13:36:01 7 had the yellow or -- yellow duplicate, and I  
 13:36:08 8 don't remember how I made a distinction what to  
 13:36:11 9 do with it.  
 13:36:11 10 Q. At this time, was Doyle's the only  
 13:36:21 11 auto salvage yard in the Dayton area?  
 13:36:27 12 A. I don't know.  
 13:36:32 13 Q. There could have been others?  
 13:36:34 14 A. Could have been, but I think I  
 13:36:39 15 believe Doyle saying he had a contract with  
 13:36:43 16 Dayton.  
 13:36:44 17 Q. Did you ever see the contract?  
 13:36:45 18 A. No.  
 13:36:46 19 Q. Do you know, was Mr. -- was Doyle  
 13:36:49 20 paid anything by the City of Dayton for taking  
 13:36:51 21 these vehicles?  
 13:36:53 22 A. I don't know.  
 13:36:53 23 Q. And you said you never saw a  
 13:36:56 24 Dayton pickup truck or tow truck bring in any  
 13:36:59 25 of these vehicles, correct?

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13:43:00 1 A. No.

13:43:00 2 Q. So the sole basis for your belief

13:43:03 3 is a slip that had Dayton Police Department on

13:43:06 4 the top, correct?

13:43:07 5 A. Correct, um-hum.

13:43:08 6 Q. You said there were approximately

13:43:15 7 300 vehicles that --

13:43:16 8 A. Two hundred.

13:43:17 9 Q. Two hundred vehicles that were

13:43:19 10 burned, had the contents drained from them and

13:43:23 11 salvaged in the two months that you were at --

13:43:25 12 A. No, I said approximately that many

13:43:28 13 came in, but most of them sat at their location

13:43:33 14 waiting to be cleared.

13:43:36 15 Q. Do you know if any of the 200 that

13:43:39 16 came in were salvaged during the time that you

13:43:42 17 worked there?

13:43:43 18 A. I -- I don't believe I was there

13:43:48 19 long enough, because I will say again, that you

13:43:48 20 had that time period, and most of them -- some

13:43:50 21 of them that I -- when I first started might

13:43:55 22 have -- that was in -- in the two stacks that

13:43:59 23 were already there before I started working

13:44:01 24 there might have, but I don't know.

13:44:03 25 Q. But you didn't have anything to do

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13:43:05 1 with the -- when you say the stacks, what

13:43:06 2 stacks were already there before you started

13:43:08 3 working?

13:43:09 4 A. The bin that had the yellow titles

13:43:11 5 and the bin that had the white titles.

13:43:14 6 Q. And you didn't have anything to do

13:43:15 7 with those, correct?

13:43:16 8 A. No, uh-huh.

13:43:17 9 Q. Okay. So you don't even have any

13:43:20 10 knowledge, as we sit here today, if any of the

13:43:22 11 slips of the vehicles that came in that said

13:43:25 12 Dayton Police Department on top of it, if any

13:43:28 13 of those cars were ever drained, burned and

13:43:31 14 salvaged, because you weren't there more than

13:43:33 15 two months, correct?

13:43:34 16 A. Correct, um-hum.

13:43:35 17 Q. Why don't you go ahead -- you've

13:43:47 18 got in front of you what's been marked as

13:43:51 19 Defendants' Exhibit 4. I'm going to give you a

13:43:53 20 red pen, and could you use the red pen to

13:43:57 21 roughly outline the area that comprised Doyle's

13:44:01 22 Auto Parts, including where he kept the

13:44:03 23 salvaged -- or kept the vehicles that came in

13:44:06 24 at the time frame that you worked there, okay?

13:44:11 25 A. Sure. (Indicating.) This is --

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13:43:20 1 it's not really -- this was more up here

13:43:23 2 (indicating), but -- this was tier one and this

13:43:29 3 would be the area (indicating).

13:43:41 4 His building, I think -- well,

13:43:44 5 maybe it was. Here's Doyle's Auto Parts right

13:43:49 6 here (indicating), so let me go back a little

13:43:52 7 further. About like that (indicating).

13:43:55 8 Because his building sat there.

13:43:57 9 The entrance was right -- right about there

13:44:00 10 (indicating), and then the cars -- the ones

13:44:03 11 that were not to be touched was put right along

13:44:09 12 this line right here (indicating), and the

13:44:12 13 other places where they were broken down for

13:44:13 14 parts and so on and so forth.

13:44:15 15 Q. Okay. Let the record reflect that

13:44:18 16 he's drawn in with a red pen -- how would you

13:44:22 17 describe that shape, Mr. Grillot? Oblong?

13:44:30 18 A. Yeah, that would be close enough.

13:44:31 19 Q. An oblong shape indicating the

13:44:33 20 area that composed Doyle's Auto Parts,

13:44:35 21 including the area where they stored the

13:44:37 22 vehicles, is that correct?

13:44:38 23 A. Correct.

13:44:39 24 Q. All right. And on this map, can

13:44:41 25 you tell me, was there a specific location

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13:44:43 1 where they would drain the fluids from the

13:44:46 2 vehicles?

13:44:49 3 A. Right there (indicating).

13:44:49 4 Q. And let the record reflect that he

13:44:52 5 circled the D in Doyle Auto Parts as the area

13:44:56 6 where the fluids would be drained --

13:44:57 7 A. Yes.

13:44:59 8 Q. -- is that correct? Other than

13:45:00 9 the two month period in 1969 when you worked

13:45:08 10 for Doyle Auto Parts, you never worked again

13:45:16 11 for him or in the auto salvage yard there,

13:45:21 12 correct?

13:45:21 13 A. No.

13:45:21 14 Q. Is that correct?

13:45:22 15 A. Correct.

13:45:22 16 Q. All right.

13:45:23 17 A. Sorry.

13:45:24 18 Q. Did he ever get a car compactor?

13:45:41 19 A. No.

13:45:42 20 Q. Are you aware of any other site in

13:45:49 21 the Dayton area that had a car compactor at

13:45:53 22 anytime between the time that you worked for

13:45:55 23 Doyle and today?

13:45:57 24 A. Yes.

13:45:57 25 Q. In what other areas?

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12:45:59 1 MR. ROMINE: Objection. It goes  
 12:46:01 2 beyond the direct. It goes beyond what Judge Rice  
 12:46:03 3 said is appropriate for this deposition.  
 12:46:04 4 BY MR. MUSTO:  
 12:46:04 5 Q. You can go ahead and answer.  
 12:46:06 6 MR. ROMINE: Repeats his previous  
 12:46:08 7 testimony.  
 12:46:08 8 THE WITNESS: It was located in West  
 12:46:11 9 Carrollton.  
 12:46:11 10 BY MR. MUSTO:  
 12:46:13 11 Q. Other than the salvage yard or car  
 12:46:14 12 compactor in West Carrollton, are you aware of  
 12:46:16 13 any other auto salvage yards in the Dayton  
 12:46:22 14 area?  
 12:46:23 15 MR. ROMINE: Same objection.  
 12:46:23 16 THE WITNESS: No.  
 12:46:25 17 BY MR. MUSTO:  
 12:46:28 18 Q. Okay. And what's the name of the  
 12:46:28 19 compactor or auto salvage yard in West  
 12:46:28 20 Carrollton?  
 12:46:31 21 A. I don't know.  
 12:46:31 22 MR. ROMINE: Same objection.  
 12:46:33 23 BY MR. MUSTO:  
 12:46:33 24 Q. You don't know. Do you know the  
 12:46:33 25 rough location?

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12:46:34 1 MR. ROMINE: Same objection.  
 12:46:36 2 THE WITNESS: I would, but only on a  
 12:46:38 3 map.  
 12:46:42 4 BY MR. MUSTO:  
 12:46:42 5 Q. Can you tell me roughly how many  
 12:46:43 6 miles that would be from the South Dayton  
 12:46:46 7 Landfill?  
 12:46:48 8 MR. ROMINE: Same objection.  
 12:46:49 9 THE WITNESS: Ten, 12 miles.  
 12:46:50 10 BY MR. MUSTO:  
 12:46:53 11 Q. Can you tell me what direction  
 12:46:54 12 from the South Dayton Landfill?  
 12:46:55 13 MR. ROMINE: Same objection.  
 12:46:58 14 THE WITNESS: South.  
 12:46:58 15 BY MR. MUSTO:  
 12:47:03 16 Q. Are you aware of any contracts  
 12:47:06 17 that any of the tow companies that brought cars  
 12:47:09 18 to Doyle Auto Parts had with the City of  
 12:47:11 19 Dayton, if any?  
 12:47:12 20 A. No.  
 12:47:34 21 Q. Do you know how long Doyle's Auto  
 12:47:56 22 Parts, the auto salvage yard, operated at the  
 12:47:59 23 South Dayton Landfill?  
 12:48:00 24 MR. ROMINE: Same objection.  
 12:48:13 25 THE WITNESS: '60s, '70s and '80s.

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12:48:17 1 BY MR. MUSTO:  
 12:48:19 2 Q. Do you know if the business  
 12:48:20 3 changed at all during that time period?  
 12:48:22 4 MR. ROMINE: Same objection.  
 12:48:24 5 THE WITNESS: I think I heard once.  
 12:48:29 6 BY MR. MUSTO:  
 12:48:29 7 Q. And what did you hear?  
 12:48:30 8 MR. ROMINE: Same objection.  
 12:48:31 9 THE WITNESS: Early in the '90s.  
 12:48:34 10 BY MR. MUSTO:  
 12:48:37 11 Q. And what did you hear?  
 12:48:39 12 MR. ROMINE: Same objection.  
 12:48:41 13 THE WITNESS: That Doyle had sold  
 12:48:44 14 it to buy a -- a bar that he had built in that  
 12:48:58 15 area.  
 12:49:02 16 BY MR. MUSTO:  
 12:49:03 17 Q. One other question. During the  
 12:49:06 18 time that you worked at Doyle's Auto Parts,  
 12:49:50 19 approximately how many cars were there?  
 12:50:01 20 A. Five hundred.  
 12:50:02 21 Q. That's the most at any one time  
 12:50:08 22 that you believe were there during the time  
 12:50:10 23 that you worked there, correct?  
 12:50:10 24 A. Um-hum.  
 12:50:11 25 Q. Is that yes?

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12:50:12 1 A. Yes.  
 12:50:22 2 MR. MUSTO: All right. I don't have  
 12:50:23 3 any other questions.  
 12:50:26 4 THE WITNESS: Thank you.  
 12:50:26 5 CROSS-EXAMINATION  
 12:50:26 6 BY MR. EDDY:  
 12:50:33 7 Q. Are you okay to continue, Mr.  
 12:50:33 8 Grillot?  
 12:50:46 9 A. Yes, I'm fine. Thank you for  
 12:50:47 10 asking.  
 12:50:47 11 Q. Thank you. Mr. Grillot, I'm  
 12:50:52 12 Robert Eddy. I represent Sherwin-Williams  
 12:50:56 13 Company. Can you hear me all right?  
 12:50:57 14 A. Yes.  
 12:50:59 15 Q. And, again, if you could keep up  
 12:51:00 16 your voice for the folks at the other end of  
 12:51:03 17 the table, it would be appreciated.  
 12:51:06 18 A. Okay.  
 12:51:06 19 Q. With respect to Uncle Alcie -- is  
 12:51:06 20 it Alcie (sic) or Alcine?  
 12:51:06 21 A. Alcine.  
 12:51:30 22 Q. Alcine. Thank you. Did he sort  
 12:51:33 23 of run the show at the -- from -- on a daily  
 12:51:35 24 basis out at the dump?  
 12:51:37 25 A. Yes.

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13:51:38 1 Q. All right. And when you were out  
13:51:39 2 there working, whether as a young boy or  
13:51:42 3 through your teens, did you take your orders  
13:51:44 4 from him?  
13:51:46 5 A. Sometimes.  
13:51:50 6 Q. Was one of the work orders just  
13:51:53 7 generally for this, in a sense, waste not, want  
13:52:00 8 not, that is, things that could be used,  
13:52:04 9 salvaged, sold, would be used, salvaged, sold  
13:52:07 10 rather than planted in a dump?  
13:52:09 11 A. Correct.  
13:52:10 12 Q. All right. And that's where  
13:52:14 13 Franklin Iron came into play, they would take  
13:52:18 14 off metal from the site?  
13:52:22 15 A. They wouldn't, we would.  
13:52:24 16 Q. For them?  
13:52:28 17 A. Yes.  
13:52:28 18 Q. Okay. In other words, whatever  
13:52:28 19 metal was salvaged, it was sold to Franklin?  
13:52:31 20 MR. ROMINE: Objection. It goes  
13:52:33 21 beyond the scope of the direct. It violates Judge  
13:52:35 22 Rice's order not to retread former testimony.  
13:52:37 23 BY MR. EDDY:  
13:52:37 24 Q. You may answer.  
13:52:38 25 A. Yes.

13:52:38 1 Q. You mentioned with respect to -- I  
13:52:45 2 think you mentioned three paint companies  
13:52:48 3 associated with the dump. And when I talk  
13:52:52 4 about the dump, I'm talking about the South  
13:52:54 5 Dayton Dump, okay?  
13:52:54 6 A. Okay.  
13:52:55 7 Q. I think you mentioned Durrel  
13:52:58 8 Paint?  
13:52:58 9 A. Yes.  
13:52:58 10 Q. I think you mentioned Pittsburgh  
13:52:58 11 Paint?  
13:52:58 12 A. Yes.  
13:53:01 13 Q. That's also PPG, is that right?  
13:53:02 14 A. Correct.  
13:53:03 15 Q. And you mentioned  
13:53:04 16 Sherwin-Williams?  
13:53:05 17 A. Yes.  
13:53:06 18 Q. All right. You said that paint  
13:53:12 19 was used to paint a building or more than one  
13:53:16 20 building on the site?  
13:53:17 21 A. Yes.  
13:53:18 22 Q. Did you personally participate in  
13:53:22 23 that painting activity?  
13:53:25 24 A. Yes.  
13:53:25 25 Q. On more than one occasion?

13:53:27 1 A. Yes.  
13:53:28 2 Q. Over more than one year?  
13:53:29 3 A. Yes.  
13:53:29 4 Q. Can you give me an idea the number  
13:53:32 5 of occasions that you personally participated  
13:53:35 6 in painting buildings out on the site where you  
13:53:39 7 used paint that had come into the site from  
13:53:42 8 some source?  
13:53:43 9 A. How many times?  
13:53:44 10 Q. Yeah.  
13:53:45 11 A. Is that including equipment?  
13:53:49 12 Q. I'm sorry, does that include --  
13:53:51 13 what kind of -- I'm talking about --  
13:53:54 14 A. The bulldozer, the tractor I  
13:53:55 15 mentioned yesterday.  
13:53:56 16 Q. Are you saying painted the  
13:53:58 17 bulldozer as well?  
13:53:59 18 A. Um-hum.  
13:54:01 19 Q. Okay. Is that a yes?  
13:54:01 20 A. Yes.  
13:54:01 21 Q. Again, the court reporter can't --  
13:54:04 22 this came up a few times before. If you could  
13:54:08 23 verbalize your answers --  
13:54:10 24 A. Sure. Yes.  
13:54:10 25 Q. -- that would be helpful.

13:54:12 1 A. Okay.  
13:54:12 2 Q. Well, let -- let's just start with  
13:54:14 3 the things that got painted with paint material  
13:54:18 4 that came into the site that was used at the  
13:54:20 5 site to paint buildings, dozers, whatever.  
13:54:24 6 What are the types of things that  
13:54:25 7 the paint was used on?  
13:54:26 8 MR. ROMINE: Asked and answered. I  
13:54:27 9 have the same objection as previously.  
13:54:30 10 THE WITNESS: Anything that was metal  
13:54:31 11 that we didn't want to rust, the gate, front gate.  
13:54:35 12 We had poles, fences. We had a couple diesel  
13:54:40 13 drums that -- that -- diesel was put in for the  
13:54:45 14 dozer and -- and the tractor. I think that's it.  
13:54:48 15 BY MR. EDDY:  
13:55:02 16 Q. So you had some buildings?  
13:55:03 17 A. Yeah.  
13:55:05 18 Q. You had a dozer or more than one  
13:55:08 19 dozer?  
13:55:10 20 A. We had two, but one was only  
13:55:17 21 runable (sic).  
13:55:18 22 Q. Did you ever paint the one that  
13:55:20 23 wasn't runable?  
13:55:21 24 A. While it was -- when it was  
13:55:23 25 running, yeah.



13:55:33 1 Q. Well, all right. So you had  
13:55:36 2 buildings, you had two dozers, you had some  
13:55:39 3 fencing, right?  
13:55:41 4 A. Um-hum.  
13:55:43 5 Q. Is that a yes?  
13:55:45 6 A. Yeah. Yes. I'm sorry.  
13:55:47 7 Q. That's all right. You had a  
13:55:49 8 couple containers for -- I don't know whether  
13:55:51 9 it was -- it wasn't gasoline. It was --  
13:55:53 10 A. Diesel.  
13:55:55 11 Q. -- diesel?  
13:55:57 12 A. Yes.  
13:55:59 13 Q. Posts?  
13:56:01 14 A. Yes.  
13:56:03 15 Q. Any -- and I'm -- just want to go  
13:56:05 16 over this list now. Anything else that you  
13:56:07 17 recall other than what you've just told me, the  
13:56:09 18 buildings, the dozers, fencing, the diesel  
13:56:11 19 containers, posts?  
13:56:13 20 A. The front gate.  
13:56:15 21 Q. Front gate.  
13:56:17 22 A. I think that's it.  
13:56:19 23 Q. Okay. Are there a number of  
13:56:21 24 buildings on the site?  
13:56:23 25 A. Yes.

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13:56:17 1 Q. And are some of the buildings --  
13:56:20 2 are there more than one building that has metal  
13:56:22 3 associated with it?  
13:56:24 4 A. Yes.  
13:56:26 5 Q. How many buildings, in your memory  
13:56:28 6 were there -- separate buildings that were  
13:56:30 7 painted by you or other workers where you used  
13:56:32 8 paint that came in from offsite?  
13:56:34 9 A. From off -- offsite?  
13:56:36 10 Q. Yes. In other words, paint  
13:56:38 11 came into the dump, whether it be from Sher --  
13:56:40 12 you said there were canisters that came in that  
13:56:42 13 had liquid in them, paint in them, is that  
13:56:44 14 correct?  
13:56:46 15 A. Correct.  
13:56:48 16 Q. Okay. And then paint was used to  
13:56:50 17 paint the building, the dozers, the fencing, et  
13:56:52 18 cetera, is that right?  
13:56:54 19 A. Correct.  
13:56:56 20 Q. Okay. So what I want to know is  
13:56:58 21 how many different buildings on the site did  
13:57:00 22 you or other folks that worked at the dump use  
13:57:02 23 the paint that came into the site to paint?  
13:57:04 24 How many buildings?  
13:57:06 25 A. Ten.

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13:57:29 1 Q. Was there a main building?  
13:57:31 2 A. Yes.  
13:57:33 3 Q. Okay. Is it possible for you on  
13:57:35 4 Exhibit 4 -- you know, let's -- let's mark this  
13:57:37 5 as 5, if we could.  
13:57:39 6 (Thereupon, Defendants' Exhibit  
13:57:41 7 Number 5, South Dayton Dump and Land Site map, was  
13:57:43 8 marked for purposes of identification.)  
13:57:45 9 BY MR. EDDY:  
13:57:47 10 Q. I'm going to hand you what we have  
13:57:49 11 marked as Defendants' Exhibit Number 5, and  
13:57:51 12 this is simply a clean copy of one of the prior  
13:57:53 13 deposition exhibits from today, but it's also a  
13:57:55 14 copy of a Deposition Exhibit Number 2 from your  
13:57:57 15 2012 deposition, okay? Just so we have that  
13:57:59 16 clear on the record.  
13:58:01 17 And what I'd like you to do, if  
13:58:03 18 you can, using this red pen is -- is to circle  
13:58:05 19 the ten buildings on the site that you just  
13:58:07 20 told me about.  
13:58:09 21 MR. ROMINE: Objection. It goes  
13:58:11 22 beyond scope of the deposition. It goes beyond  
13:58:13 23 the scope of direct. It also violates Judge  
13:58:15 24 Rice's order that the scope of the deposition be  
13:58:17 25 limited.

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13:59:09 1 THE WITNESS: (Indicating.)  
13:59:11 2 BY MR. EDDY:  
13:59:13 3 Q. You know, I really wished I would  
13:59:15 4 have asked you to highlight that on the end,  
13:59:17 5 and that's what I'm going to ask you to do in  
13:59:19 6 yellow. If you could highlight in, as best you  
13:59:21 7 can, those ten buildings.  
13:59:23 8 A. (Indicating.)  
13:59:25 9 Q. Okay. Thank you.  
13:59:27 10 A. Um-hum.  
13:59:29 11 Q. Now, you also told me that you had  
13:59:31 12 personally participated in the painting of  
13:59:33 13 these buildings with this paint that would come  
13:59:35 14 in from offsite over a number of years, is that  
13:59:37 15 correct?  
13:59:39 16 A. Correct.  
13:59:41 17 Q. How often were these buildings  
13:59:43 18 painted?  
13:59:45 19 MR. ROMINE: Same objection.  
13:59:47 20 THE WITNESS: I did it twice.  
13:59:49 21 BY MR. EDDY:  
13:59:51 22 Q. Okay. Does that mean that you  
13:59:53 23 worked on two buildings or you worked on all  
13:59:55 24 ten buildings two times?  
13:59:57 25 A. I worked on all buildings

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14:00:34 1 during -- two times.

14:00:43 2 Q. Okay. And did you ever observe

14:00:44 3 other workers at the dump painting those ten

14:00:51 4 buildings, maybe not all at once obviously, but

14:00:56 5 over a period of time where you weren't doing

14:00:58 6 the work, but you saw others doing that work,

14:01:00 7 that painting?

14:01:01 8 MR. ROMINE: Same objection.

14:01:02 9 THE WITNESS: Yes.

14:01:03 10 BY MR. EDDY:

14:01:03 11 Q. Okay. The fence that you told me

14:01:08 12 about, where was that fence located?

14:01:11 13 MR. ROMINE: Same objection.

14:01:13 14 BY MR. EDDY:

14:01:14 15 Q. Can you just tell me just

14:01:15 16 generally did it encircle the dump? I mean,

14:01:18 17 are we talking about 20 feet of fence? Are we

14:01:20 18 talking about 500 feet of fence? Can you give

14:01:23 19 me some idea?

14:01:24 20 MR. ROMINE: Same objection. Vague.

14:01:25 21 THE WITNESS: Well, over the years,

14:01:30 22 we had three locations -- different locations. As

14:01:33 23 the dump was progressing to be filled, we had

14:01:37 24 three separate entrances, two of which that I

14:01:41 25 painted during my time there. Do you want me to

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14:01:47 1 locate them?

14:01:47 2 BY MR. EDDY:

14:01:47 3 Q. Well, are those the gates that

14:01:50 4 you're talking about --

14:01:50 5 A. Right.

14:01:51 6 Q. -- that you painted? I'm asking

14:01:53 7 about the fencing material --

14:01:54 8 A. Okay.

14:01:54 9 Q. -- the fencing. Are you saying --

14:01:54 10 when you told us that the fences were painted

14:01:58 11 with the paint that came onto the site, were

14:02:00 12 you referring to the gates or were you

14:02:03 13 referring to other fencing material around the

14:02:05 14 site?

14:02:04 15 MR. ROMINE: Same objection.

14:02:07 16 THE WITNESS: There's a location very

14:02:09 17 north of the dump that had -- General Motors had

14:02:20 18 their camp RVs and new -- brand new trucks at one

14:02:24 19 time, and it was a silver with a barbwire that was

14:02:29 20 approximately maybe five feet -- 500 feet long and

14:02:36 21 about eight feet tall.

14:02:38 22 BY MR. EDDY:

14:02:38 23 Q. And is this the standard fencing

14:02:40 24 that you'd see in the interlocking --

14:02:41 25 A. Right.

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14:02:42 1 Q. -- wire fencing?

14:02:43 2 A. Correct.

14:02:43 3 MR. ROMINE: Same objection.

14:02:45 4 BY MR. EDDY:

14:02:45 5 Q. All right. You said that was

14:02:47 6 about 500 feet by what?

14:02:48 7 MR. ROMINE: Same objection.

14:02:50 8 THE WITNESS: By eight.

14:02:51 9 BY MR. EDDY:

14:02:51 10 Q. By eight. The posts -- were there

14:02:53 11 a lot of posts or just a couple of posts?

14:02:55 12 MR. ROMINE: Same objection.

14:02:56 13 THE WITNESS: Lots.

14:02:57 14 BY MR. EDDY:

14:02:57 15 Q. Lots?

14:02:58 16 A. Lots of posts.

14:02:59 17 Q. Where would these posts be and

14:03:01 18 what function did they serve?

14:03:01 19 MR. ROMINE: Same objection.

14:03:03 20 Objection to form.

14:03:04 21 THE WITNESS: Well, the 500 feet of

14:03:07 22 fence would consist of maybe 40 poles. The gates,

14:03:14 23 as they moved to the set -- to the location I'm

14:03:19 24 speaking of, we had put up a barrier fence, and

14:03:23 25 that was probably a hundred feet long.

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14:03:26 1 Then we had poles that had signs on

14:03:28 2 them, stop, do not enter, drive in at your own

14:03:33 3 risk, stuff like that.

14:03:33 4 BY MR. EDDY:

14:03:38 5 Q. And were the posts -- so you had

14:03:40 6 some posts that were associated with the

14:03:43 7 fencing you've told me about?

14:03:44 8 A. Um-hum.

14:03:44 9 Q. Is that yes?

14:03:45 10 A. Yes. I'm sorry.

14:03:45 11 Q. That's all right. And you had

14:03:49 12 some gates. Was there three gates for the

14:03:51 13 three entrances?

14:03:52 14 MR. ROMINE: Same objection. Asked

14:03:53 15 and answered.

14:03:53 16 THE WITNESS: Yes.

14:03:54 17 BY MR. EDDY:

14:03:56 18 Q. Can you describe for me the size

14:03:57 19 of the gates?

14:03:57 20 MR. ROMINE: Same objection. Asked

14:04:00 21 and answered.

14:04:00 22 THE WITNESS: They're approximately

14:04:03 23 20 feet long, four inches in diameter, and then

14:04:13 24 it -- there was a pole that stuck out and then it

14:04:19 25 was on a pedestal, and the pedestal was maybe four

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14:06:19 1 feet tall.  
 14:06:22 2 BY MR. EDDY:  
 14:06:23 3 Q. How high?  
 14:06:23 4 MR. ROMINE: Same objection.  
 14:06:24 5 THE WITNESS: Four feet tall.  
 14:06:27 6 BY MR. EDDY:  
 14:06:28 7 Q. Oh, I'm sorry.  
 14:06:30 8 A. That's okay.  
 14:06:30 9 Q. The diesel containers, how big  
 14:06:33 10 were they?  
 14:06:34 11 MR. ROMINE: Same objection.  
 14:06:36 12 THE WITNESS: They were a size of a  
 14:06:39 13 Volkswagen. Eight feet round, eight feet long,  
 14:06:47 14 and then they set on top of metal things that the  
 14:06:53 15 drum set on.  
 14:06:55 16 BY MR. EDDY:  
 14:06:56 17 Q. Okay. Now, were the buildings --  
 14:06:58 18 the ten buildings that were painted using paint  
 14:06:59 19 that came into the dump from offsite, from  
 14:07:00 20 whatever location, were they painted on any  
 14:07:01 21 regular basis, that is --  
 14:07:02 22 MR. ROMINE: Same objection.  
 14:07:03 23 BY MR. EDDY:  
 14:07:03 24 Q. -- annually or were they painted  
 14:07:07 25 whenever there was enough paint or remnants of

14:06:30 1 paint that came in from offsite?  
 14:06:32 2 MR. ROMINE: Same objection.  
 14:06:34 3 THE WITNESS: The second would be --  
 14:06:36 4 BY MR. EDDY:  
 14:06:37 5 Q. Okay. And you indicated, I think,  
 14:06:45 6 in your 2012 deposition that, you know, at one  
 14:06:52 7 point you had pink buildings one year, olive  
 14:06:55 8 colored the next. Do you remember that  
 14:06:56 9 testimony?  
 14:06:56 10 A. Yes.  
 14:06:56 11 Q. The paint that was used onsite, to  
 14:06:58 12 paint these things that you've just told us  
 14:06:59 13 about, what was done to, I guess, aggregate the  
 14:07:01 14 remnants of paint that would be in any  
 14:07:02 15 canisters together to get enough paint to paint  
 14:07:03 16 a building --  
 14:07:03 17 MR. ROMINE: Same objection.  
 14:07:03 18 BY MR. EDDY:  
 14:07:03 19 Q. -- can you explain that to me?  
 14:07:03 20 MR. ROMINE: Same objection.  
 14:07:03 21 THE WITNESS: Are you talking about  
 14:07:03 22 what size containers, is that what --  
 14:07:03 23 BY MR. EDDY:  
 14:07:03 24 Q. Well, we can start with that.  
 14:07:03 25 A. Okay.

14:06:38 1 Q. You told us yesterday that the  
 14:06:43 2 paint companies -- there were some drums that  
 14:06:45 3 came in.  
 14:06:46 4 A. Yes.  
 14:06:46 5 Q. Okay. And you said with respect  
 14:06:51 6 to Pittsburgh Paint, and I think separately as  
 14:06:54 7 to Sherwin-Williams, that most of them were  
 14:06:57 8 empty. Do you recall that testimony?  
 14:06:59 9 MR. ROMINE: Same objection.  
 14:07:00 10 THE WITNESS: Yes.  
 14:07:01 11 BY MR. EDDY:  
 14:07:02 12 Q. And I think with respect to the --  
 14:07:04 13 that testimony, you said occasionally there  
 14:07:06 14 would be some remnant in the bottom of the --  
 14:07:08 15 the drum, and I think you put your fingers  
 14:07:13 16 about like this (indicating), a couple  
 14:07:15 17 inches --  
 14:07:15 18 A. Right.  
 14:07:16 19 Q. -- deep, if you will. Do you  
 14:07:19 20 recall doing that with your fingers?  
 14:07:20 21 A. Yes.  
 14:07:20 22 Q. Okay. So what you're trying to  
 14:07:22 23 say is that, although most of the drums were  
 14:07:24 24 empty when they came to the site, some of the  
 14:07:27 25 drums had some remnants of some material in the

14:07:33 1 bottom of them, and you were saying a couple  
 14:07:34 2 inches deep at the bottom of the drum, correct?  
 14:07:37 3 A. Correct.  
 14:07:37 4 Q. Is that what you recall?  
 14:07:39 5 A. Correct.  
 14:07:39 6 Q. All right. And you said with  
 14:07:41 7 respect to the remnants of the drums, whatever  
 14:07:45 8 the liquid was that was in the drums, that it  
 14:07:48 9 would be dumped, you said, behind an office.  
 14:07:51 10 A. Um-hum.  
 14:07:51 11 Q. Do you recall that testimony?  
 14:07:52 12 A. Yes. Yes.  
 14:07:54 13 Q. Okay. Did you actually do that  
 14:07:56 14 yourself?  
 14:07:56 15 A. Yes.  
 14:07:58 16 Q. Okay. Did you do it on more than  
 14:08:00 17 one occasion?  
 14:08:01 18 A. Yes.  
 14:08:01 19 Q. Did you see any others do it or  
 14:08:04 20 did you just -- was that part of your job that  
 14:08:07 21 you did?  
 14:08:07 22 A. Bud Young, he -- I saw him do it a  
 14:08:13 23 few times.  
 14:08:13 24 Q. Okay. Do you have any idea -- can  
 14:08:16 25 you estimate for me the number of times when

14:08:19 1 you might have dumped out this -- this couple  
 14:08:22 2 inch remnant at the bottom of a drum on the  
 14:08:26 3 ground behind the office?  
 14:08:28 4 A. I could give you a guesstimate.  
 14:08:31 5 That's --  
 14:08:31 6 Q. What would your guesstimate be? A  
 14:08:34 7 dozen?  
 14:08:34 8 A. Twenty maybe.  
 14:08:34 9 Q. Okay. Less than 20 you think?  
 14:08:37 10 A. Yeah.  
 14:08:37 11 Q. All right. And can you -- on this  
 14:08:41 12 exhibit that we've marked here, what office  
 14:08:45 13 building were you referring to was the place  
 14:08:47 14 that -- where the drums weren't completely  
 14:08:51 15 empty but had some remnant of liquid in them  
 14:08:54 16 you would dump them behind the office?  
 14:08:59 17 A. (Indicating.)  
 14:09:00 18 Q. Okay. Now, on Exhibit 5 you've  
 14:09:03 19 just marked a black circle with an X through  
 14:09:06 20 it, is that correct?  
 14:09:06 21 A. Correct.  
 14:09:07 22 Q. All right. Very good. And is  
 14:09:10 23 this the office building that you're talking  
 14:09:13 24 about now that I'm pointing to --  
 14:09:18 25 A. No.

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14:09:16 1 Q. -- or is it one of the other  
 14:09:17 2 buildings?  
 14:09:17 3 A. At this particular time, there was  
 14:09:18 4 a trailer sitting right here (indicating). It  
 14:09:21 5 was behind the office. It was a regular house  
 14:09:23 6 trailer.  
 14:09:23 7 Q. Oh, okay. Can I -- let's just put  
 14:09:27 8 in the word trailer there.  
 14:09:28 9 A. Um-hum.  
 14:09:29 10 Q. Can I do that?  
 14:09:30 11 A. Yeah.  
 14:09:30 12 Q. With a little arrow to it so we  
 14:09:34 13 know what we're talking about (indicating).  
 14:09:36 14 Okay. Thank you.  
 14:09:44 15 Now, those barrels with that  
 14:09:51 16 remnant material, do you know of your own  
 14:09:55 17 personal knowledge what that material was,  
 14:09:58 18 whether it was paint or -- or what it was?  
 14:10:02 19 MR. ROMINE: Asked and answered.  
 14:10:03 20 BY MR. EDDY:  
 14:10:03 21 Q. Do you know?  
 14:10:04 22 A. Yes.  
 14:10:04 23 Q. What was it?  
 14:10:08 24 A. Paint thinner. Denatured alcohol.  
 14:10:19 25 I'm not sure, but sometimes I think there was

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14:10:32 1 what was called creosote.  
 14:10:34 2 Q. Creosote?  
 14:10:38 3 A. Um-hum.  
 14:10:38 4 Q. Is that a yes?  
 14:10:40 5 A. Yes.  
 14:10:40 6 Q. Now, are these barrels -- the  
 14:10:50 7 barrels that we're talking about here, these  
 14:10:53 8 drums, are these 55-gallon drums?  
 14:10:54 9 A. Correct.  
 14:10:58 10 Q. And are these drums that came from  
 14:10:58 11 some source of paint from outside the dump to  
 14:11:02 12 the dump, some painting operation?  
 14:11:04 13 A. Yes.  
 14:11:05 14 Q. Okay. Was there any -- when you  
 14:11:14 15 say paint thinner, denatured alcohol, is that  
 14:11:18 16 something you smelled?  
 14:11:18 17 A. Oh, yeah.  
 14:11:18 18 Q. Okay. Did it have -- was there  
 14:11:20 19 any markings on the drums?  
 14:11:23 20 A. I think there was a red sign that  
 14:11:27 21 said toxic.  
 14:11:28 22 Q. Do you recall whether it said  
 14:11:31 23 anything about what it was, that is, the names,  
 14:11:35 24 paint thinner?  
 14:11:37 25 A. I believe it was on a slip that

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14:11:39 1 was kind of Scotch taped to the side of the  
 14:11:39 2 barrel.  
 14:11:47 3 Q. All right. Now, the paint that  
 14:11:50 4 would be used, however, to -- let me just touch  
 14:11:54 5 upon this then.  
 14:11:57 6 In the 55-gallon drums, whatever  
 14:12:00 7 one or two inches of remnant might be present  
 14:12:04 8 at the bottom of these barrels, it wasn't  
 14:12:04 9 paint, it was some form of either paint  
 14:12:11 10 thinner, denatured alcohol or creosote you  
 14:12:11 11 said?  
 14:12:14 12 A. Right.  
 14:12:14 13 MR. ROMINE: Asked and answered.  
 14:12:14 14 BY MR. EDDY:  
 14:12:14 15 Q. The paint that was used to paint  
 14:12:17 16 the buildings on the site, what did those come  
 14:12:21 17 in on -- or in? One gallon canisters.  
 14:12:27 18 A. Five -- mostly fives, one gallon  
 14:12:29 19 and quarts.  
 14:12:32 20 Q. Fives, ones and quarts?  
 14:12:36 21 A. (Witness nodding head up and  
 14:12:36 22 down.)  
 14:12:36 23 Q. Correct?  
 14:12:36 24 A. Yes, correct.  
 14:12:39 25 Q. And the five gallon canisters,

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14:12:43 1 were those metal?

14:12:44 2 A. Yes.

14:12:45 3 Q. And was one of your jobs to open

14:12:51 4 them up and see what colors were in there?

14:12:53 5 A. Correct.

14:12:54 6 Q. And were -- were most of those

14:12:58 7 canisters by and large empty?

14:13:02 8 A. No, most -- most of them was

14:13:04 9 either half full or three quarters of the way

14:13:04 10 full.

14:13:09 11 Q. Okay. Did you have any

14:13:11 12 understanding of -- well, were these -- strike

14:13:20 13 that. Was part of your job to aggregate the

14:13:30 14 paint together so that the buildings could be

14:13:32 15 painted?

14:13:32 16 A. Yes.

14:13:32 17 Q. Were you the only one that had --

14:13:34 18 A. Yes. Pardon me?

14:13:35 19 Q. Were you the only one that had

14:13:37 20 that job?

14:13:37 21 A. No.

14:13:38 22 Q. Okay. Were there others at the

14:13:42 23 same time that you had that job that were doing

14:13:44 24 that as well?

14:13:45 25 A. Yes.

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14:13:45 1 Q. All right. And would you try to

14:13:49 2 aggregate the same types of paints together,

14:13:52 3 that is, oil based paints with oil based

14:13:54 4 paints, latex with latex?

14:13:58 5 A. Correct.

14:13:57 6 Q. Okay. And -- and would you

14:14:00 7 generally mix different colors of these paints

14:14:03 8 together, and, therefore, some days -- some --

14:14:06 9 some years you ended up with a pink building or

14:14:08 10 a tan building because the colors you mixed

14:14:10 11 together turned out to be pink or turned out to

14:14:13 12 be tan or whatever color you happened to paint

14:14:16 13 them as?

14:14:18 14 A. Right.

14:14:17 15 Q. Okay. Gotcha. Was that -- the

14:14:25 16 aggregation of the paint and the use of the

14:14:26 17 paint onsite to paint these ten buildings, was

14:14:28 18 that part of Alcie's (sic) rule of, you know,

14:14:32 19 we want to use whatever we can and sell

14:14:36 20 whatever we can on the site before it goes into

14:14:40 21 the dump?

14:14:42 22 MR. ROMINE: Objection.

14:14:42 23 THE WITNESS: Right.

14:14:42 24 BY MR. EDDY:

14:14:42 25 Q. Or rather than going into the

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14:14:43 1 dump, correct?

14:14:43 2 A. Correct.

14:14:45 3 MR. ROMINE: Objection. It violates

14:14:44 4 Judge Rice's order.

14:14:53 5 Q. All right. And when you would

14:14:59 6 aggregate these paints from five gallon

14:15:00 7 containers, one gallon containers and quarts,

14:15:04 8 what would you aggregate them in?

14:15:09 9 A. Usually it was a five gallon --

14:15:16 10 if -- the five gallon from the quarts and

14:15:19 11 gallons, and then we would -- if we got that

14:15:22 12 much, then we'd pour it into a 55-gallon

14:15:24 13 drum.

14:15:25 14 Q. Okay. So you would aggregate

14:15:26 15 quarts into gallons, gallons into five --

14:15:30 16 fives, and anything more than that, you'd end

14:15:33 17 up putting into an empty --

14:15:35 18 A. Drum.

14:15:38 19 Q. -- 55-gallon drum?

14:15:37 20 A. Right.

14:15:37 21 Q. And then putting a lid on it until

14:15:40 22 you would use it to paint these ten buildings,

14:15:42 23 right --

14:15:43 24 A. Right.

14:15:46 25 Q. -- correct?

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14:15:45 1 A. Um-hum.

14:15:45 2 Q. Is that a yes?

14:15:46 3 A. Yes.

14:15:46 4 Q. Did you ever get to decide what

14:15:46 5 colors this was going to be painted, these

14:15:56 6 buildings?

14:15:56 7 MR. ROMINE: Same objection.

14:15:56 8 THE WITNESS: No.

14:15:56 9 BY MR. EDDY:

14:15:57 10 Q. Did somebody decide that?

14:15:58 11 MR. ROMINE: Same objection.

14:15:59 12 THE WITNESS: Yes.

14:15:59 13 BY MR. EDDY:

14:16:00 14 Q. Who decided that?

14:16:00 15 MR. ROMINE: Same objection.

14:16:02 16 THE WITNESS: Horace Boesch and Cyril

14:16:02 17 Grillot.

14:16:06 18 BY MR. EDDY:

14:16:08 19 Q. Okay. I'm going to show you some

14:16:12 20 exhibits that were marked at your prior

14:16:16 21 deposition, and I'll read out the numbers.

14:16:22 22 I'm not sure I'm going to mark

14:16:24 23 them separately, but this was marked at your

14:16:28 24 prior 2012 deposition as Exhibit 5, and was

14:16:31 25 that one of the buildings that would be

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14:16:23 1 painted?

14:16:33 2 MR. ROMINE: Same objection.

14:16:34 3 THE WITNESS: Yes.

14:16:34 4 BY MR. EDDY:

14:16:35 5 Q. Is that a yes?

14:16:36 6 A. Yes.

14:16:37 7 Q. Okay. And can you tell me on

14:16:44 8 Exhibit 4 here where that building is?

14:16:46 9 MR. ROMINE: Same objection.

14:16:48 10 THE WITNESS: That one right there

14:16:49 11 (indicating).

14:16:49 12 BY MR. EDDY:

14:16:50 13 Q. All right. Can you put a number

14:16:50 14 one there on Defendants' Exhibit 4, a number

14:16:52 15 one and circle it?

14:16:54 16 A. (Indicating.)

14:16:57 17 Q. And is this the building you're

14:16:58 18 talking about right next to it?

14:16:59 19 A. Um-hum.

14:17:00 20 Q. And then you put a little arrow to

14:17:02 21 the building. Thank you. So that was one of

14:17:04 22 the buildings that I'm showing you a picture of

14:17:06 23 now from your 2012 deposition, Exhibit 5, that

14:17:09 24 was one of the buildings that was painted with

14:17:12 25 the paint that would come in from the site,

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14:17:13 1 correct?

14:17:14 2 A. Correct. There's one of the gates

14:17:18 3 (indicating).

14:17:15 4 Q. And it shows one of the gates. It

14:17:17 5 appears to be a white gate.

14:17:18 6 A. Yes. This is the fence

14:17:20 7 (indicating).

14:17:20 8 Q. And it shows some fencing in front

14:17:24 9 of the building that's shown in the photograph,

14:17:26 10 correct?

14:17:25 11 A. Correct.

14:17:26 12 Q. All right. Showing you the 2012

14:17:32 13 Deposition Exhibit 6, either one of these

14:17:36 14 buildings, did you do any painting or did any

14:17:40 15 of the other employees of the dump do any

14:17:41 16 painting on either one of these buildings?

14:17:44 17 MR. ROMINE: Same objection.

14:17:45 18 THE WITNESS: This one, this one,

14:17:46 19 this one (indicating).

14:17:47 20 BY MR. EDDY:

14:17:47 21 Q. Now, I only see two buildings

14:17:49 22 here, but you pointed to something --

14:17:49 23 A. There's one right behind here

14:17:49 24 (indicating).

14:17:52 25 Q. Okay. Right in the center of the

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14:17:52 1 photograph there's a tree, and right next to

14:17:53 2 the tree it looks like a white little spot, but

14:17:54 3 that's a building behind that tree?

14:17:59 4 MR. ROMINE: Same objection.

14:17:59 5 THE WITNESS: Yes. That was Doyle's

14:18:02 6 Auto Parts' building.

14:18:02 7 BY MR. EDDY:

14:18:02 8 Q. All right. And so even Doyle's

14:18:05 9 Auto Parts' building got painted?

14:18:06 10 MR. ROMINE: Same objection.

14:18:06 11 THE WITNESS: Right.

14:18:09 12 BY MR. EDDY:

14:18:09 13 Q. All right. Is Doyle's one of the

14:18:10 14 ten that you pointed out to me on this prior

14:18:12 15 exhibit here?

14:18:12 16 MR. ROMINE: Same objection.

14:18:12 17 THE WITNESS: Correct.

14:18:12 18 BY MR. EDDY:

14:18:15 19 Q. All right. Okay. Gotcha. The

14:18:18 20 building on the photograph that shows this

14:18:22 21 Exhibit 6 from the 2012 deposition on the right

14:18:24 22 has four or five bay doors. Do you see that?

14:18:28 23 MR. ROMINE: Same objection.

14:18:28 24 THE WITNESS: Yes.

14:18:28 25 BY MR. EDDY:

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14:18:30 1 Q. What is the name of that building?

14:18:31 2 MR. ROMINE: Same objection.

14:18:32 3 THE WITNESS: We called it the GM

14:18:33 4 building.

14:18:33 5 BY MR. EDDY:

14:18:33 6 Q. Okay. And what building is it

14:18:37 7 on -- now, I'm going to ask you to mark this on

14:18:41 8 Exhibit 4 that we've marked today, which is a

14:18:44 9 larger version of the -- the plot.

14:18:47 10 A. (Indicating.)

14:18:55 11 Q. Okay. So you've marked it. Could

14:18:59 12 you circle the two there for me? And you've

14:19:00 13 put an arrow into the building that is to the

14:19:05 14 right on Deposition Exhibit 6 from your 2012

14:19:06 15 deposition with the four bay doors, is that

14:19:06 16 correct?

14:19:13 17 A. This isn't actually laid out.

14:19:19 18 Q. What -- I don't want you to mark

14:19:20 19 anything more on -- on Exhibit 4.

14:19:22 20 A. Okay. That's a close -- yeah.

14:19:26 21 This --

14:19:26 22 Q. Let me -- let me just go this way

14:19:31 23 here. This -- this building on the left of

14:19:36 24 Deposition Exhibit 6 that was also painted, can

14:19:39 25 you show me where that exists on Exhibit 4?

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14:19:42 1 MR. ROMINE: Same objection.  
 14:19:44 2 THE WITNESS: (Indicating.)  
 14:19:48 3 BY MR. EDDY:  
 14:19:48 4 Q. Okay. So you've marked that as  
 14:19:50 5 number three with an arrow pointing to that  
 14:19:52 6 building as well, correct?  
 14:19:53 7 A. Correct.  
 14:19:58 8 MR. MUSTO: Which exhibit number is  
 14:19:57 9 he marking on?  
 14:19:58 10 MR. EDDY: Exhibit 4 marked today.  
 14:20:01 11 MR. MUSTO: 4. Okay.  
 14:20:01 12 BY MR. EDDY:  
 14:20:02 13 Q. Deposition Exhibit 7, is that --  
 14:20:04 14 from your 2012 deposition, is that a better  
 14:20:09 15 look at the building that you've just  
 14:20:11 16 identified as number three on Exhibit 4 that  
 14:20:14 17 appears also on the left?  
 14:20:18 18 A. No.  
 14:20:18 19 MR. ROMINE: Same objection.  
 14:20:17 20 BY MR. EDDY:  
 14:20:17 21 Q. Is that a different building?  
 14:20:18 22 A. Yes.  
 14:20:18 23 Q. So Exhibit 7 -- let me -- follow  
 14:20:21 24 with me here, if you would. Exhibit 7 from  
 14:20:24 25 your 2012 deposition shows another building on

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1 the site, right?  
 2 MR. ROMINE: Same objection.  
 3 THE WITNESS: Correct.  
 4 (Thereupon, the court reporter  
 5 interrupted the deposition.)  
 14:20:39 6 MR. COUGHLIN: Bob, I have an idea.  
 14:20:39 7 MR. EDDY: What?  
 14:20:42 8 MR. COUGHLIN: Along the lines you  
 14:20:43 9 offered.  
 14:20:43 10 BY MR. EDDY:  
 14:20:44 11 Q. Yeah. Thank you for reminding me  
 14:20:48 12 and the witness. If you could just -- I'll ask  
 14:20:51 13 you a question, counsel here is going to have  
 14:20:54 14 some objections. Let him state his objection  
 14:20:54 15 for the record, and then you can answer my  
 14:20:58 16 question. If -- if you talk right at the end  
 14:21:00 17 of my question, you're going to be talking over  
 14:21:03 18 Dave, okay?  
 14:21:04 19 A. Okay. All right. Sure.  
 14:21:04 20 Q. Let's try to avoid that. So now  
 14:21:07 21 I'm showing you Exhibit 7 from your 2012  
 14:21:09 22 deposition, and this shows another building on  
 14:21:12 23 the site, correct?  
 14:21:13 24 A. Correct.  
 14:21:15 25 MR. ROMINE: Same objection.

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14:21:15 1 BY MR. EDDY:  
 14:21:15 2 Q. And what is the name of this  
 14:21:16 3 building?  
 14:21:17 4 MR. ROMINE: Same objection.  
 14:21:18 5 THE WITNESS: That was called tool  
 14:21:24 6 and die. It was a tool and die shop, but I -- I  
 14:21:27 7 should know the name. Something tool and die.  
 14:21:30 8 BY MR. EDDY:  
 14:21:30 9 Q. Okay. Was that one of the ten  
 14:21:33 10 buildings that you've previously marked in  
 14:21:34 11 yellow on one of the exhibits here that I've  
 14:21:34 12 shown you --  
 14:21:37 13 A. Yes.  
 14:21:37 14 MR. ROMINE: Same objection.  
 14:21:37 15 BY MR. EDDY:  
 14:21:37 16 Q. -- or is that a different  
 14:21:37 17 building?  
 14:21:39 18 A. Yes.  
 14:21:39 19 Q. It's a different building?  
 14:21:43 20 A. I'm confused.  
 14:21:44 21 Q. All right. Let's try to clear up  
 14:21:47 22 your confusion. On Exhibit 5 that I showed you  
 14:21:49 23 here today, I had -- I had you circle in red  
 14:21:53 24 and then color in in yellow highlight marker --  
 14:21:57 25 A. Right.

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14:21:58 1 Q. -- the ten buildings that were  
 14:21:58 2 painted over a period of years at the site --  
 14:22:01 3 A. Okay.  
 14:22:01 4 Q. -- correct?  
 14:22:03 5 A. Correct.  
 14:22:03 6 Q. Okay. This building then I'm  
 14:22:08 7 showing you here, the photograph that appears  
 14:22:10 8 as Deposition Exhibit 7 from your 2012  
 14:22:13 9 deposition, is this building one of the ten  
 14:22:16 10 buildings you showed me on Exhibit 5?  
 14:22:17 11 MR. ROMINE: Same objection.  
 14:22:19 12 THE WITNESS: Yes.  
 14:22:20 13 BY MR. EDDY:  
 14:22:21 14 Q. Okay. That's fine. Now, this  
 14:22:24 15 building that's shown in Exhibit 7 from your  
 14:22:28 16 2012 deposition, can you mark that with a  
 14:22:33 17 number four on Defendants' Exhibit 4 that we've  
 14:22:37 18 marked today?  
 14:22:37 19 A. (Indicating.)  
 14:22:43 20 Q. All right. Good. Was this one of  
 14:22:44 21 the buildings that you would have been involved  
 14:22:47 22 in painting over a period of years while you  
 14:22:50 23 were at the dump?  
 14:22:50 24 MR. ROMINE: Same objection. It's  
 14:22:53 25 been asked and answered.

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14:22:52 1 THE WITNESS: Yes.

14:22:53 2 BY MR. EDDY:

14:22:57 3 Q. Showing you what was marked as

14:23:00 4 Deposition Exhibit 8 at your 2012 deposition,

14:23:03 5 this shows a -- it's a photograph of a building

14:23:06 6 that, I think, is just of a different angle.

14:23:10 7 It's the same building but just

14:23:12 8 from a different angle as the building shown in

14:23:14 9 Exhibit 7 from your 2012 deposition, is that

14:23:17 10 correct?

14:23:17 11 MR. ROMINE: Same objection.

14:23:18 12 THE WITNESS: No.

14:23:18 13 BY MR. EDDY:

14:23:19 14 Q. It's a different building. Okay.

14:23:24 15 A. If you -- if you -- do you want me

14:23:25 16 to show you?

14:23:26 17 Q. Well, what do you want -- what is

14:23:27 18 it that you want to show me, sir?

14:23:29 19 A. Remember you saw that little white

14:23:31 20 speck?

14:23:31 21 Q. Yes.

14:23:32 22 A. That is part of this little corner

14:23:34 23 here (indicating).

14:23:34 24 Q. Okay. So back when you were

14:23:34 25 telling me about the -- the building in the

14:23:41 1 middle of Deposition Exhibit 6 from your 2012

14:23:42 2 deposition, that little white speck that you

14:23:44 3 said was a building behind the tree, that

14:23:48 4 building now appears in Deposition Exhibit 8

14:23:51 5 from your 2012 deposition, you have a much

14:23:53 6 better view of it, is that correct?

14:23:55 7 A. Correct.

14:23:58 8 Q. All right. And I don't recall

14:24:00 9 whether I asked you to mark that building on

14:24:05 10 Exhibit 4, but can you show me where that

14:24:09 11 building is on Exhibit 4 and I'll --

14:24:13 12 A. (Indicating.)

14:24:13 13 Q. Okay. Now, hold on. Let's get

14:24:15 14 it -- you've got 4, so mark that as number

14:24:18 15 five.

14:24:18 16 A. (Indicating.)

14:24:21 17 Q. And you've now marked the number

14:24:23 18 five in a black circle with an arrow that's

14:24:27 19 showing the building that is depicted on

14:24:30 20 Deposition Exhibit Number 8 from your 2012

14:24:33 21 deposition, is that correct?

14:24:33 22 A. Yes.

14:24:33 23 Q. All right. Good. Looking now at

14:24:41 24 the building that's depicted in Deposition

14:24:44 25 Exhibit 9 from your 2012 deposition, do you

14:24:48 1 recognize that as one of the buildings that was

14:24:49 2 painted by you and others, I assume, over a

14:24:55 3 period of years at the dump?

14:24:56 4 MR. ROMINE: Same objection.

14:24:57 5 THE WITNESS: Yes.

14:24:58 6 BY MR. EDDY:

14:24:59 7 Q. And is that building -- it appears

14:25:05 8 red in this photograph, correct?

14:25:07 9 A. Yes.

14:25:08 10 Q. Is that building -- was that a

14:25:10 11 yes?

14:25:10 12 A. Yes.

14:25:11 13 Q. Okay. Was that building one of

14:25:12 14 the ten buildings that you pointed out to me

14:25:14 15 on -- and marked in yellow and red on Exhibit

14:25:16 16 5?

14:25:18 17 MR. ROMINE: Same objection.

14:25:19 18 THE WITNESS: Correct.

14:25:19 19 BY MR. EDDY:

14:25:20 20 Q. Great. And can you show me on

14:25:23 21 Exhibit 4 where that building is and put in a

14:25:24 22 number six in a circle with an arrow to the

14:25:30 23 building?

14:25:30 24 A. (Indicating.)

14:25:34 25 Q. The photograph that was marked as

14:25:41 1 Deposition Exhibit 10 at your 2012 deposition

14:25:43 2 is just another photograph from another --

14:25:46 3 another angle of that red building that is

14:25:48 4 shown on Exhibit 9 and that you have marked

14:25:52 5 with number six on Exhibit 4 today, is that

14:25:54 6 correct?

14:25:54 7 MR. ROMINE: Same objection.

14:25:55 8 THE WITNESS: Correct.

14:25:58 9 BY MR. EDDY:

14:25:58 10 Q. The deposition Exhibit 11 from

14:25:58 11 your 2012 deposition is again a photograph of

14:26:02 12 the same red building that is depicted in the

14:26:07 13 prior two photographs --

14:26:07 14 MR. ROMINE: Same objection.

14:26:08 15 BY MR. EDDY:

14:26:08 16 Q. -- correct?

14:26:09 17 A. Correct.

14:26:10 18 Q. All right. Now, I take it that

14:26:21 19 with all this building painting that was going

14:26:23 20 on with the paint that came in from the site,

14:26:26 21 that more than one person would be engaged in

14:26:29 22 painting those buildings at any one time?

14:26:31 23 A. Oh, yeah.

14:26:31 24 MR. ROMINE: Same objection.

14:26:33 25 BY MR. EDDY:



14:26:33 1 Q. Okay. You told us yesterday that  
 14:26:40 2 there was at least one occasion where you ran  
 14:26:44 3 out of paint that you and others had aggregated  
 14:26:49 4 together to paint these buildings and that you  
 14:26:53 5 had to go back to one -- to the  
 14:26:54 6 Sherwin-Williams store to get more paint to  
 14:26:58 7 match that color. Do you recall that  
 14:27:00 8 testimony?  
 14:27:00 9 A. Yes, I do.  
 14:27:02 10 Q. Okay. Did that happen more than  
 14:27:03 11 once?  
 14:27:05 12 A. Yes.  
 14:27:05 13 Q. About how many times, to your  
 14:27:07 14 knowledge, did that happen?  
 14:27:09 15 A. Well, I would say three or four  
 14:27:13 16 times.  
 14:27:13 17 Q. Okay. Over how many years?  
 14:27:17 18 A. Two years.  
 14:27:21 19 Q. Do you recall what -- what years  
 14:27:24 20 and what decade that you were speaking of?  
 14:27:29 21 A. '72 and '73.  
 14:27:32 22 Q. Okay. And you mentioned a store  
 14:27:38 23 on Patterson Road. Was that the store that you  
 14:27:40 24 went to, the Sherwin-Williams store on  
 14:27:43 25 Patterson Road?

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14:27:43 1 A. Correct.  
 14:27:43 2 Q. Okay. You mentioned yesterday a  
 14:27:45 3 conversation with the store manager. Is that  
 14:27:49 4 the store manager that on those occasions  
 14:27:51 5 you've just told me about that you would go  
 14:27:53 6 back and try to match paint to finish the  
 14:27:57 7 buildings because you had run out of paint that  
 14:28:00 8 had been aggregated over a period of time from  
 14:28:03 9 paint that had come into the site, is that  
 14:28:05 10 correct?  
 14:28:05 11 A. Correct.  
 14:28:05 12 Q. All right. And the only reason  
 14:28:07 13 for going to the Sherwin-Williams store to get  
 14:28:10 14 more paint to match the paint that you had  
 14:28:14 15 aggregated together is because you would run  
 14:28:15 16 out of that paint?  
 14:28:24 17 A. Something to be added, but I'll  
 14:28:26 18 say yes at this time.  
 14:28:27 19 Q. Okay. Did you try to use the oil  
 14:28:38 20 based paints that you had aggregated together  
 14:28:43 21 for the buildings --  
 14:28:43 22 MR. ROMINE: Same objection.  
 14:28:43 23 BY MR. EDDY:  
 14:28:46 24 Q. -- rather than latex?  
 14:28:46 25 MR. ROMINE: Same objection.

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14:28:48 1 THE WITNESS: Yes.  
 14:28:50 2 BY MR. EDDY:  
 14:28:50 3 Q. What did you use the latex on?  
 14:28:52 4 MR. ROMINE: Same objection.  
 14:28:54 5 THE WITNESS: Maybe I'm confused.  
 14:29:01 6 Maybe -- could I tell you how it worked and me  
 14:29:03 7 simplify it or do you want me to --  
 14:29:04 8 BY MR. EDDY:  
 14:29:04 9 Q. No, I think it's probably best if  
 14:29:07 10 you respond to my questions.  
 14:29:08 11 A. Okay.  
 14:29:08 12 Q. You said there was oil based  
 14:29:14 13 paints in these ones, fives and quarts that  
 14:29:18 14 came in, some of which were half empty, a  
 14:29:23 15 quarter empty, three quarter empty.  
 14:29:25 16 In other words, they were not  
 14:29:28 17 complete canisters of paint, there was some  
 14:29:31 18 paint missing from all of these?  
 14:29:32 19 MR. ROMINE: Asked and answered.  
 14:29:33 20 BY MR. EDDY:  
 14:29:33 21 Q. Is that correct?  
 14:29:33 22 A. Correct.  
 14:29:34 23 Q. And by and large, were they, more  
 14:29:39 24 often than not, halfway empty or more than  
 14:29:42 25 halfway empty?

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14:29:44 1 MR. ROMINE: Asked and answered.  
 14:29:45 2 THE WITNESS: Correct.  
 14:29:45 3 BY MR. EDDY:  
 14:29:46 4 Q. All right. And you tried to keep  
 14:29:49 5 the -- when you aggregated the paints together,  
 14:29:52 6 the quarts into the gallons, the gallons into  
 14:29:54 7 the fives, and then when you ran out of room in  
 14:29:57 8 the fives, you'd start putting them in fresh  
 14:30:00 9 55-gallon drums.  
 14:30:02 10 You would do that to, what, store  
 14:30:03 11 the drums on site until you needed to use them  
 14:30:05 12 to paint the buildings and the posts and the  
 14:30:07 13 fences and all that stuff?  
 14:30:08 14 MR. ROMINE: Same objection --  
 14:30:09 15 THE WITNESS: Correct.  
 14:30:10 16 MR. ROMINE: -- as before. Wait for  
 14:30:11 17 me to finish.  
 14:30:14 18 THE WITNESS: I'm sorry.  
 14:30:14 19 MR. ROMINE: Thank you.  
 14:30:16 20 BY MR. EDDY:  
 14:30:16 21 Q. That's fine. You mentioned one  
 14:30:18 22 gallon lids yesterday?  
 14:30:18 23 A. Um-hum.  
 14:30:18 24 Q. Is that a yes?  
 14:30:18 25 A. Yes. Yes.

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14:30:50 1 Q. And when you would paint these  
14:30:56 2 buildings, the dozer, the fencing, the diesel  
14:31:02 3 containers, the posts, the gates, those things,  
14:31:05 4 were you pulling paint out of a 55-gallon drum  
14:31:08 5 that you had aggregated together?

14:31:10 6 MR. ROMINE: Same objection as  
14:31:12 7 before. Asked and answered.

14:31:13 8 THE WITNESS: Yes.

14:31:14 9 BY MR. EDDY:

14:31:14 10 Q. Would you dip in a one gallon can  
14:31:18 11 and take it off to whatever area that you were  
14:31:20 12 painting? How did that work?

14:31:21 13 MR. ROMINE: Same objection as  
14:31:23 14 before.

14:31:25 15 THE WITNESS: I had cleaned up a -- a  
14:31:26 16 pump that was used in diesel paints that had a  
14:31:30 17 crank that had a nozzle.

14:31:31 18 BY MR. EDDY:

14:31:31 19 Q. Okay. So you would pump it from  
14:31:34 20 the 55-gallon drum into a smaller container and  
14:31:38 21 then paint from the smaller container?

14:31:40 22 A. Right.

14:31:40 23 MR. ROMINE: Same objection.

14:31:41 24 THE WITNESS: Right.

14:31:42 25 BY MR. EDDY:

14:31:42 1 Q. Okay. All right. And then if you  
14:31:48 2 were using a quart, generally I -- is it fair  
14:31:52 3 to say that when you were done with the  
14:31:54 4 painting job on one of these buildings, if you  
14:31:56 5 were drawing it out of a 55-gallon drum, you  
14:31:59 6 would use the paint in the quart or the five  
14:32:02 7 gallon that you had drawn it from, those would  
14:32:09 8 be empty at the time that you're done with your  
14:32:10 9 painting job, correct?

14:32:11 10 MR. ROMINE: Same objection.

14:32:13 11 THE WITNESS: Yes.

14:32:13 12 BY MR. EDDY:

14:32:13 13 Q. All right. And what would you do  
14:32:18 14 with those canisters, the ones or the fives  
14:32:20 15 that you would paint from, after the paint job  
14:32:23 16 was done and the can was empty? What would you  
14:32:27 17 do with them?

14:32:30 18 A. Take them down to pier three.

14:32:33 19 Q. Tier?

14:32:34 20 A. Tier three, yeah. Tier, yeah.

14:32:36 21 Q. Okay. And do what?

14:32:38 22 A. Throw them in the -- the dump

14:32:40 23 pile.

14:32:41 24 Q. Okay. And was tier two where

14:32:44 25 they -- was that ever burned off?

14:32:48 1 A. Tier two, yes.

14:32:49 2 Q. Tier two was?

14:32:50 3 A. Yes.

14:32:50 4 Q. But you took them to tier three,  
14:32:53 5 did you say?

14:32:54 6 A. Right.

14:32:54 7 Q. Okay. Did you allow the canister  
14:32:56 8 to dry before you would then throw them away?

14:33:02 9 A. Yes.

14:33:03 10 Q. All right. Were any of the ones  
14:33:07 11 or fives that you allowed to dry, were they  
14:33:10 12 ever put in tier two and then burned off so  
14:33:13 13 that the metal canister could be salvaged and  
14:33:17 14 taken away by Franklin?

14:33:21 15 A. Sometimes.

14:33:24 16 Q. Did you see other employees of the  
14:33:28 17 dump who would use those ones and fives that  
14:33:32 18 they used to paint these buildings, when  
14:33:35 19 emptied, put them in the tier for burning?

14:33:38 20 A. Bud Young.

14:33:39 21 Q. Anybody else?

14:33:41 22 A. No.

14:33:42 23 Q. Okay. You referenced the lids  
14:33:50 24 from canisters being put in the burning area or  
14:33:53 25 tier yesterday. Do you recall that testimony?

14:33:54 1 A. Yes.

14:33:57 2 Q. Okay. These would be metal lids?

14:34:00 3 A. Yes.

14:34:01 4 Q. And then after the burn was  
14:34:03 5 completed, you mentioned also a magnet that  
14:34:06 6 would be used, and, what, dragged over the area  
14:34:12 7 to then pick up what metal is left from the  
14:34:15 8 burn?

14:34:18 9 A. Correct.

14:34:18 10 Q. And that would include these  
14:34:17 11 canister lids?

14:34:18 12 A. Correct.

14:34:18 13 Q. Okay. Did whoever was doing that  
14:34:21 14 operation try to get all the salvageable metal  
14:34:28 15 that was in the burn area after a burn in order  
14:34:32 16 to lift it out of that area and put it in an  
14:34:39 17 area for Franklin to pick up?

14:34:31 18 A. Correct.

14:34:32 19 Q. All right. Did that operator of  
14:34:35 20 the magnet ever go around other tiers where  
14:34:38 21 there would be metal that would be pulled out  
14:34:42 22 for Franklin to salvage out of the dump?

14:34:44 23 A. Correct.

14:34:45 24 Q. All right. So that -- would that  
14:34:48 25 come out of tier three where you said you put

14:34:02 1 some of the ones and fives that you were  
 14:34:03 2 finished with after painting the buildings?  
 14:34:04 3 A. No.  
 14:34:05 4 Q. Okay.  
 14:34:06 5 A. Tier three was the bury pile.  
 14:34:07 6 Q. Okay. All right. Did you do any  
 14:34:08 7 painting of the buildings in the 1960s as  
 14:34:09 8 opposed to --  
 14:34:10 9 MR. ROMINE: Objection. Same  
 14:34:11 10 objection as before.  
 14:34:12 11 BY MR. EDDY:  
 14:34:13 12 Q. -- as opposed to the early 1970s  
 14:34:14 13 that you told me about?  
 14:34:15 14 A. The '60s was more of the tractor,  
 14:34:16 15 dozer, the posts and fence. I think the first  
 14:34:17 16 time I painted the buildings was '72, I think.  
 14:34:18 17 Q. Okay. Were the other folks, other  
 14:34:19 18 employees at the dump, were they painting the  
 14:34:20 19 buildings back in the '60s?  
 14:34:21 20 MR. ROMINE: Same objection.  
 14:34:22 21 THE WITNESS: No.  
 14:34:23 22 BY MR. EDDY:  
 14:34:24 23 Q. No. With respect to the material  
 14:34:25 24 that came -- you believe came from a  
 14:34:26 25 Sherwin-Williams location to the dump, you

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14:37:05 1 referred to there being -- their coming there  
 14:37:06 2 in white vans.  
 14:37:07 3 A. Correct.  
 14:37:08 4 Q. Do you recall that testimony?  
 14:37:09 5 A. Correct.  
 14:37:10 6 Q. Were these panel vans?  
 14:37:11 7 A. Correct.  
 14:37:12 8 Q. Did they open by the side, like a  
 14:37:13 9 slider door from the back?  
 14:37:14 10 A. Both.  
 14:37:15 11 Q. To your knowledge, did most of the  
 14:37:16 12 material that came in for Sherwin-Williams to  
 14:37:17 13 the site that you've told us about, come in  
 14:37:18 14 from Patterson Road?  
 14:37:19 15 A. I don't know that.  
 14:37:20 16 Q. Okay. There's no way for you to  
 14:37:21 17 estimate it?  
 14:37:22 18 A. No.  
 14:37:23 19 Q. All right. I take it, as you sit  
 14:37:24 20 here today, you're unable to tell us the volume  
 14:37:25 21 of liquid paints that came in these ones, fives  
 14:37:26 22 and quarts from any painting company that ended  
 14:37:27 23 up being used on buildings, fences, posts, that  
 14:37:28 24 sort of thing?  
 14:37:29 25 You're not able to estimate the

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14:38:38 1 volume of that paint that was used at the site,  
 14:38:39 2 are you?  
 14:38:40 3 A. No.  
 14:38:41 4 Q. In terms of gallons or weight or  
 14:38:42 5 anything like that, is that true?  
 14:38:43 6 A. True.  
 14:38:44 7 Q. You did some work rehabbing HUD  
 14:38:45 8 homes, is that correct?  
 14:38:46 9 MR. ROMINE: Same objection as  
 14:38:47 10 before. Asked and answered.  
 14:38:48 11 THE WITNESS: Correct.  
 14:38:49 12 BY MR. EDDY:  
 14:38:50 13 Q. All right. When did you start  
 14:38:51 14 that?  
 14:38:52 15 MR. ROMINE: Same objection as  
 14:38:53 16 before.  
 14:38:54 17 THE WITNESS: 1969.  
 14:38:55 18 BY MR. EDDY:  
 14:38:56 19 Q. And when did you end doing that?  
 14:38:57 20 MR. ROMINE: Same objection as  
 14:38:58 21 before.  
 14:38:59 22 THE WITNESS: '73.  
 14:39:00 23 BY MR. EDDY:  
 14:39:01 24 Q. Okay. Was any of the paint that  
 14:39:02 25 was ever brought into the dump from any of the

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14:39:39 1 sources of paint that came into the dump ever  
 14:39:40 2 used in the HUD rehabbing that you did?  
 14:39:41 3 A. Sometimes.  
 14:39:42 4 Q. Okay. You -- you would use -- you  
 14:39:43 5 would have used some of the paint that came in?  
 14:39:44 6 A. Correct.  
 14:39:45 7 Q. You -- you, yourself?  
 14:39:46 8 A. Correct.  
 14:39:47 9 Q. Correct?  
 14:39:48 10 A. Um-hum.  
 14:39:49 11 Q. And who did you do that rehabbing  
 14:39:50 12 with again?  
 14:39:51 13 MR. ROMINE: Same objection as  
 14:39:52 14 before.  
 14:39:53 15 THE WITNESS: Be my father, Cyril  
 14:39:54 16 Grillo.  
 14:39:55 17 BY MR. EDDY:  
 14:39:56 18 Q. Okay. Anybody else? Any of the  
 14:39:57 19 uncles?  
 14:39:58 20 A. No.  
 14:39:59 21 Q. Okay. It was just -- the HUD  
 14:40:00 22 rehabbing operation was something you and your  
 14:40:01 23 dad did?  
 14:40:02 24 A. Correct.  
 14:40:03 25 MR. ROMINE: Same objection as

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14:38:57 1 before. Asked and answered.

14:38:59 2 THE WITNESS: Oh, sorry.

14:40:00 3 BY MR. EDDY:

14:40:01 4 Q. And in terms of the use of paint

14:40:04 5 that came into the dump from a source of paint

14:40:06 6 offsite, would the same operation apply that

14:40:12 7 you would -- that the paint that's used in the

14:40:14 8 HUD rehabbing would have been aggregated from

14:40:18 9 quarts, gallons and fives into their larger

14:40:22 10 containers, and then from the larger

14:40:25 11 containers, you would use or take paint from

14:40:27 12 that to go offsite and use in the HUD

14:40:30 13 rehabbing?

14:40:31 14 A. No.

14:40:32 15 Q. How did it work?

14:40:36 16 A. If white paint came or like a

14:40:41 17 cream color, then I would save it for my

14:40:44 18 personal or Dad's use, and then Alcine, he

14:40:51 19 would use some of it for his own buildings.

14:40:54 20 Q. Offsite?

14:40:58 21 A. Offsite.

14:40:59 22 Q. Okay. What colors did he use?

14:41:01 23 A. Some whites, and the oil bases

14:41:11 24 were used for the metal building. He had a

14:41:13 25 metal building, so we used oil for the metal

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14:41:18 1 buildings, and he had one, I think.

14:41:19 2 Q. Okay. Where was that located? Do

14:41:21 3 you have an address?

14:41:24 4 A. Right across from Fickert's. I

14:41:24 5 think that's Dryden Road, Springboro Pike, one

14:41:26 6 of the two.

14:41:27 7 Q. So you and your dad used some of

14:41:42 8 the paint that came into the dump for your HUD

14:41:45 9 home rehabbing, is that correct?

14:41:47 10 MR. ROMINE: Same objection as

14:41:48 11 before --

14:41:48 12 THE WITNESS: Correct.

14:41:49 13 MR. ROMINE: -- and asked and

14:41:49 14 answered.

14:41:50 15 BY MR. EDDY:

14:41:50 16 Q. Alcine -- Uncle Alcine used some of

14:41:52 17 the paint that came into the dump from offsite

14:41:54 18 to paint a metal building offsite that he

14:41:57 19 owned, is that correct?

14:41:58 20 MR. ROMINE: Asked and answered, and

14:41:59 21 same objection as before.

14:42:00 22 THE WITNESS: Correct.

14:42:01 23 BY MR. EDDY:

14:42:02 24 Q. Anybody else associated with the

14:42:05 25 dump that ended up using paint that came into

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14:42:08 1 the dump for disposal in one fashion or another

14:42:11 2 in these quarts, in these ones and in these

14:42:14 3 fives that was used at other locations?

14:42:18 4 A. Yes.

14:42:19 5 Q. Who?

14:42:20 6 A. Kenneth Grillot.

14:42:20 7 Q. Okay.

14:42:22 8 A. Uncle Kenny.

14:42:23 9 Q. And did he have more than one

14:42:24 10 building offsite or just one?

14:42:29 11 A. A couple.

14:42:29 12 Q. Okay. Where were they located?

14:42:31 13 A. In Beavercreek.

14:42:32 14 Q. Do you have an address for either

14:42:34 15 one of them?

14:42:38 16 A. No. No. No.

14:42:38 17 Q. No. What kind of buildings were

14:42:41 18 they?

14:42:43 19 A. A couple barns and a house.

14:42:48 20 Q. Did you ever provide any of this

14:42:51 21 paint to -- that came into the dump from

14:42:53 22 offsite to friends and acquaintances and -- who

14:42:54 23 would might have a need for paint?

14:42:58 24 A. If I did, I don't recall.

14:43:01 25 Q. Okay. Do you know whether any of

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14:43:02 1 the other employees did or whether Uncle Alcine

14:43:05 2 did or whether your dad did?

14:43:09 3 A. Doyle Roberson, I think, got some

14:43:17 4 paint.

14:43:17 5 Q. Can you tell us how many HUD

14:43:25 6 buildings you and your dad rehabbed over a

14:43:28 7 period of years?

14:43:28 8 MR. ROMINE: Same objection as

14:43:32 9 before.

14:43:32 10 THE WITNESS: They were houses and we

14:43:34 11 purchased six altogether.

14:43:35 12 BY MR. EDDY:

14:43:35 13 Q. Okay. Would you use the paint

14:43:36 14 that came into the dump from sources outside

14:43:42 15 the dump to paint both the interior and

14:43:48 16 exterior of the HUD homes?

14:43:47 17 A. Yes.

14:43:48 18 Q. And do you know whether the

14:43:57 19 building -- I think it was just one building

14:43:59 20 that -- that Uncle Alcine had?

14:44:01 21 A. Two.

14:44:02 22 Q. Two. Did he --

14:44:03 23 A. Two -- two and a house.

14:44:05 24 Q. Two and a house. Okay. And the

14:44:10 25 two buildings and the house that Uncle Alcine

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14:44:12 1 had that he used the paint that had come into  
 14:44:15 2 the dump to paint those buildings, did he paint  
 14:44:18 3 both the interior and exterior of those  
 14:44:22 4 buildings and the house, to your knowledge?  
 14:44:23 5 A. I don't know.  
 14:44:24 6 Q. Okay. Do you know that he used  
 14:44:26 7 them on the exterior of the two buildings and  
 14:44:28 8 the house?  
 14:44:30 9 A. Correct.  
 14:44:30 10 Q. You're just not sure about the  
 14:44:30 11 interior?  
 14:44:30 12 A. Correct.  
 14:44:34 13 Q. Fair enough. And then the -- you  
 14:44:37 14 say it was two buildings that Kenneth had?  
 14:44:42 15 A. It's two barns and a house.  
 14:44:44 16 Q. And if I asked you this a moment  
 14:44:46 17 ago, I apologize, did he use it for both the  
 14:44:48 18 exterior of the barns and the house as well as  
 14:44:51 19 the interior?  
 14:44:52 20 A. I don't know that.  
 14:44:53 21 Q. Do you know that he used them on  
 14:44:55 22 the outside but not the inside?  
 14:44:58 23 A. Correct.  
 14:44:58 24 Q. All right. And then do you know  
 14:45:04 25 what became of those canisters of paint that

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14:45:07 1 were used on all those other offsite buildings,  
 14:45:12 2 homes, barns, after the painting was done  
 14:45:17 3 offsite, how those canisters were disposed  
 14:45:19 4 of?  
 14:45:19 5 A. I don't know.  
 14:45:22 6 Q. Are you able to tell me the number  
 14:45:40 7 of one gallon -- empty one gallon canisters of  
 14:45:44 8 paint from any source, whether it be Durrel,  
 14:45:51 9 PPG or Sherwin-Williams, that were actually  
 14:45:54 10 physically disposed of on the site?  
 14:45:57 11 MR. ROMINE: Same objection as  
 14:45:59 12 before.  
 14:46:00 13 THE WITNESS: No.  
 14:46:01 14 BY MR. EDDY:  
 14:46:01 15 Q. And would your answer be same for  
 14:46:03 16 the -- the five gallon canisters as well?  
 14:46:06 17 MR. ROMINE: Same objection as  
 14:46:07 18 before.  
 14:46:08 19 THE WITNESS: Correct.  
 14:46:22 20 BY MR. EDDY:  
 14:46:23 21 Q. When you said yesterday that you  
 14:46:27 22 had some recollection of the Sherwin-Williams  
 14:46:31 23 van dropping off materials to be disposed of at  
 14:46:37 24 the site from Patterson Road, you said, I  
 14:46:41 25 think, it was two times a week. Do you recall

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14:46:43 1 that testimony?  
 14:46:44 2 A. Correct.  
 14:46:44 3 Q. And you've been asked a lot of  
 14:46:47 4 questions by a lot of lawyers here about how  
 14:46:51 5 often various entities were -- had drop offs,  
 14:46:56 6 if you will, and is that from your memory from  
 14:47:00 7 when you were a teenager as opposed to when you  
 14:47:08 8 were eight to ten years old or a teenager?  
 14:47:14 9 I guess what I'm trying to get at  
 14:47:16 10 is, how far back does this memory of yours go?  
 14:47:21 11 Are you really able to tell us  
 14:47:22 12 here 50 years since you were ten -- eight, ten  
 14:47:30 13 years old, how many times these folks were  
 14:47:32 14 coming and making drop offs?  
 14:47:35 15 MR. ROMINE: Objection. Asked and  
 14:47:35 16 answered.  
 14:47:40 17 THE WITNESS: I don't know how to  
 14:47:42 18 define an answer.  
 14:47:44 19 BY MR. EDDY:  
 14:47:44 20 Q. Is that because your memory is  
 14:47:50 21 hazy at times?  
 14:47:52 22 A. No. No, not at all.  
 14:48:04 23 Q. I want to go over some general  
 14:48:07 24 questions here. At the time of your 2012  
 14:48:12 25 deposition, you -- you told the lawyers there

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14:48:12 1 that you were on Trax -- Trazodone as well as  
 14:48:19 2 Celexa, and an unnamed blood pressure  
 14:48:23 3 medication. Do you recall that testimony?  
 14:48:26 4 A. Yes, I do.  
 14:48:27 5 Q. Okay. The Trazodone, do you  
 14:48:32 6 understand that to be a medication prescribed  
 14:48:34 7 for psychiatric problems, such as depression?  
 14:48:39 8 A. It started out that way.  
 14:48:41 9 Q. Okay. It's got an off label use  
 14:48:43 10 for people with sleep problems.  
 14:48:45 11 A. Correct.  
 14:48:49 12 Q. And that's why you were using it?  
 14:48:47 13 A. Correct.  
 14:48:48 14 Q. Can you tell me the number of  
 14:48:49 15 years you have been on Trazodone?  
 14:48:53 16 A. I started in '03.  
 14:48:55 17 Q. Okay. And you take it every day  
 14:48:57 18 then?  
 14:48:57 19 A. Every night.  
 14:48:58 20 Q. Every night. The hundred  
 14:49:01 21 milligrams?  
 14:49:01 22 A. Correct.  
 14:49:02 23 Q. Have you been told by your  
 14:49:11 24 physician that that medication is associated  
 14:49:15 25 with memory impairment?

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14:49:18 1 A. No.

14:49:18 2 Q. The Celexa that you were on, how

14:49:24 3 long were you on that at the time of your 2012

14:49:29 4 deposition?

14:49:29 5 A. I started that November 18th,

14:49:36 6 2008.

14:49:36 7 Q. And that is not one of the

14:49:40 8 medications that you said you're on as of

14:49:40 9 today?

14:49:42 10 A. Correct.

14:49:42 11 Q. So when did you stop taking Celexa

14:49:45 12 between your 2012 deposition and today?

14:49:49 13 A. I think a year ago.

14:49:53 14 Q. Okay. Was that per doctor's

14:49:56 15 orders or did you take yourself off of it?

14:50:00 16 A. Actually from the pharmacist. No,

14:50:02 17 a doctor did tell me, yes. Yes.

14:50:04 18 Q. Were you -- and now Celexa, as I

14:50:08 19 understand it, is also prescribed for

14:50:12 20 psychiatric conditions, including depression?

14:50:15 21 A. Correct.

14:50:15 22 Q. Is that why you were prescribed

14:50:18 23 Celexa?

14:50:19 24 A. Yes, at the time.

14:50:21 25 Q. Who was your doctor at the time?

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14:50:23 1 A. It was a hospital doctor in the

14:50:32 2 ward that's in --

14:50:33 3 Q. Where -- what ward and what city

14:50:35 4 and what hospital?

14:50:37 5 A. It was Goldsboro Medical Center or

14:50:44 6 Medical Hospital. I was on the -- their

14:50:47 7 alcohol and drug rehab psychiatric ward.

14:50:50 8 Q. How long were you hospitalized for

14:50:52 9 that?

14:50:54 10 A. Roughly ten days.

14:50:57 11 Q. And that was in 2008?

14:50:58 12 A. Yes.

14:50:59 13 Q. In North Carolina?

14:51:00 14 A. Yes.

14:51:00 15 Q. Have you been hospitalized since

14:51:03 16 then?

14:51:04 17 A. Yes.

14:51:08 18 Q. How many occasions?

14:51:07 19 A. Probably six times.

14:51:12 20 Q. For what conditions?

14:51:17 21 A. Mostly because I was having

14:51:19 22 problems with what I'm experiencing right now.

14:51:22 23 Q. Pancreatitis?

14:51:23 24 A. Correct.

14:51:24 25 Q. Were all of those six occasions

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14:51:27 1 for pancreatitis or were any of them for any

14:51:30 2 other medical condition?

14:51:33 3 A. A couple injuries, and then one

14:51:37 4 they were just probing.

14:51:39 5 Q. Probing for what?

14:51:40 6 A. To see why I was having so much

14:51:42 7 discomfort.

14:51:44 8 Q. Were any of them related to any

14:51:47 9 psychiatric conditions?

14:51:48 10 A. No.

14:51:48 11 Q. But when you were hospitalized in

14:51:54 12 2008, was that for a bipolar condition?

14:51:56 13 A. That was a -- what I was diagnosed

14:51:58 14 at that -- at that time.

14:51:59 15 Q. Have you ever been diagnosed as

14:52:00 16 being depressed?

14:52:05 17 A. No, not really.

14:52:08 18 Q. The blood pressure medication that

14:52:10 19 you were on at the time of your deposition in

14:52:13 20 2012, do you recall what it was?

14:52:13 21 A. No.

14:52:15 22 Q. Does the name Inderal ring a bell?

14:52:19 23 A. No.

14:52:19 24 Q. When did you stop taking the blood

14:52:27 25 pressure medication?

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14:52:27 1 A. It was around 2012, the end -- the

14:52:32 2 end of the year, something like that.

14:52:33 3 Q. You mentioned yesterday that you

14:52:36 4 had some bad memories about the University of

14:52:40 5 Dayton, some hostility or anger associated with

14:52:43 6 the University of --

14:52:43 7 A. Bad feelings.

14:52:44 8 Q. Okay. What does that arise out

14:52:46 9 of, just generally?

14:52:50 10 A. The tradition and action that was

14:52:54 11 taken and what happened with my father's

14:52:59 12 estate.

14:52:59 13 Q. What did the University of Dayton

14:53:01 14 have to do with what happened to your father's

14:53:01 15 estate?

14:53:07 16 A. I expected some help after all

14:53:11 17 his -- his generosity.

14:53:18 18 Q. Your father had -- had given a lot

14:53:20 19 to the university over the years, he

14:53:22 20 experienced some bad times associated with the

14:53:26 21 dump and didn't get some help that he was

14:53:27 22 hoping to get from the university, and that's

14:53:28 23 the source of that pain and anger for you?

14:53:32 24 A. That, and the fact that when

14:53:37 25 Horace's wife donated the John Bonevitz Center,

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14:53:42 1 whatever it's called, did -- the stocks and  
14:53:44 2 bonds that came from my father's estate was --  
14:53:46 3 for that building was put under the Boesch  
14:53:50 4 name.

14:53:50 5 Q. That was put what?

14:53:52 6 A. Put under the Boesch name.

14:53:53 7 Q. Instead of?

14:53:55 8 A. Grillot/Boesch.

14:53:56 9 Q. All right. Okay. Thank you. I  
14:54:01 10 don't -- I wanted to find out what that was  
14:54:03 11 about. I didn't mean to drag you through what  
14:54:06 12 were hard emotional times for you.

14:54:08 13 A. That's okay. Can I take a break?

14:54:09 14 Q. Sure.

14:54:10 15 (Pause in proceedings.)

15:02:41 16 MR. EDDY: Can we go back on the  
15:02:42 17 record?

15:02:43 18 THE COURT REPORTER: Yes.

15:02:43 19 BY MR. EDDY:

15:02:44 20 Q. Mr. Grillot, are you ready to  
15:02:46 21 continue your deposition now?

15:02:48 22 A. Yes, I am.

15:02:49 23 Q. Are you feeling all right?

15:02:50 24 A. Yeah.

15:02:50 25 Q. Okay. Good. I have to ask you

15:02:52 1 this: While we were on a break, did you have  
15:02:56 2 any conversations outside this room with Mr.  
15:02:56 3 Romine here --

15:02:56 4 A. No.

15:03:01 5 Q. -- or with any other lawyer  
15:03:04 6 representative of the plaintiffs in this case?

15:03:07 7 A. Yes.

15:03:07 8 Q. Who did you talk to?

15:03:09 9 A. Jeff Ireland.

15:03:12 10 Q. And he's an attorney here?

15:03:14 11 A. Yeah.

15:03:15 12 Q. Okay. And can you recount me what  
15:03:19 13 that conversation was?

15:03:19 14 A. He said he had to leave, that his  
15:03:24 15 co-attorney was going to be here, nice to see  
15:03:28 16 you again and good luck.

15:03:30 17 Q. Was there any questions or banter  
15:03:34 18 about -- in terms of the testimony that you've  
15:03:37 19 given here today?

15:03:39 20 A. No.

15:03:39 21 MR. ROMINE: Let me just interject,  
15:03:43 22 because Mr. Grillot may not know that Jeff Ireland  
15:03:43 23 does not represent the plaintiffs.

15:03:45 24 MR. EDDY: He's not what?

15:03:46 25 MR. ROMINE: He doesn't represent the

15:03:48 1 plaintiffs.

15:03:48 2 MR. EDDY: Oh, oh.

15:03:48 3 MR. ROMINE: Mr. Ireland and I are  
15:03:51 4 not representing the same people, the same  
15:03:52 5 companies.

15:03:54 6 BY MR. EDDY:

15:03:54 7 Q. Okay.

15:03:54 8 A. Okay.

15:03:54 9 Q. My question was, had you talked to  
15:03:57 10 any of the lawyers for the plaintiffs in this  
15:03:58 11 lawsuit?

15:03:59 12 A. No.

15:04:00 13 Q. All right. You were asked some  
15:04:14 14 questions earlier today about some meals you  
15:04:20 15 had and who paid for the meals and your travels  
15:04:24 16 for these depositions that you've had  
15:04:26 17 yesterday, today, as well as questions about  
15:04:29 18 those issues going back to the 2012 deposition.

15:04:32 19 Have you directly or indirectly  
15:04:38 20 received any checks, bank checks, from anybody  
15:04:44 21 representing the plaintiffs, including their  
15:04:48 22 investigator, who you've talked to?

15:04:50 23 A. Yes.

15:04:51 24 Q. Okay. How many checks have you  
15:04:53 25 received?

15:04:56 1 A. Two.

15:04:56 2 Q. And when did you receive them?

15:04:59 3 A. The spring of -- it must have been  
15:05:04 4 March or April of 2012. And then I can't  
15:05:13 5 remember when I went back home, but it was, I  
15:05:16 6 think, within that year.

15:05:17 7 Q. Okay. Do you recall how much each  
15:05:20 8 check was for?

15:05:23 9 A. Both of them, I believe, were the  
15:05:26 10 same, and I think they were like five hundred  
15:05:29 11 and forty some dollars.

15:05:30 12 Q. Okay. And they were cashed, I  
15:05:32 13 assume? They were cashed, you cashed them or  
15:05:35 14 deposited them?

15:05:38 15 A. Yes.

15:05:36 16 Q. Okay. And has anyone received any  
15:05:42 17 checks from any representative of the  
15:05:45 18 plaintiffs on your behalf?

15:05:46 19 A. No.

15:05:46 20 Q. Has your girlfriend, who you've  
15:05:50 21 stayed with up here, has she received any kind  
15:05:53 22 of monetary payments from anybody representing  
15:05:56 23 the plaintiffs in this case?

15:05:57 24 A. No.

15:05:58 25 Q. Have you received any cash from

15:06:10 1 any representative of the plaintiffs? Not a  
 15:06:12 2 check, but cash.  
 15:06:13 3 A. No.  
 15:06:18 4 MR. EDDY: Is everybody with us?  
 15:06:24 5 MS. WRIGHT: Yes.  
 15:06:24 6 MR. SHARETT: Yes, I'm here. Anthony  
 15:06:25 7 Sharett, I'm here.  
 15:06:28 8 MR. EDDY: Very good. Thank you.  
 15:06:30 9 BY MR. EDDY:  
 15:06:30 10 Q. Yesterday you were asked some  
 15:07:02 11 questions about your not having received a  
 15:07:04 12 subpoena to require your appearance at the 2012  
 15:07:10 13 deposition or today. Do you recall that --  
 15:07:12 14 A. Yes.  
 15:07:13 15 Q. -- those questions and your  
 15:07:14 16 answers from yesterday?  
 15:07:17 17 A. Yes.  
 15:07:18 18 Q. All right. And you were asked in  
 15:07:21 19 general terms, you know, since you didn't get a  
 15:07:24 20 subpoena requiring your appearance, you know,  
 15:07:27 21 why you volunteered to come in without a  
 15:07:30 22 subpoena that would require your appearance.  
 15:07:32 23 And you said, and I'm paraphrasing  
 15:07:37 24 here, but you referenced not being a Christian,  
 15:07:39 25 but that you quoted a -- a Bible passage

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15:07:41 1 about -- I just wrote this down -- the ruin of  
 15:07:44 2 the earth?  
 15:07:44 3 A. Right.  
 15:07:45 4 Q. And you indicated that -- that you  
 15:07:48 5 felt some guilt in terms of your family name  
 15:07:52 6 being associated with the South Dayton Dump.  
 15:07:56 7 Do you recall that testimony?  
 15:07:57 8 A. Correct.  
 15:07:58 9 Q. All right. And you also mentioned  
 15:08:03 10 Agenda 21 and something about clearing --  
 15:08:07 11 clearing your conscience?  
 15:08:13 12 A. Yes.  
 15:08:15 13 Q. Do you have feelings of guilt with  
 15:08:19 14 respect to the South Dayton Dump?  
 15:08:21 15 MR. ROMINE: Asked and answered.  
 15:08:26 16 THE WITNESS: Yes.  
 15:08:27 17 BY MR. EDDY:  
 15:08:27 18 Q. Okay. When did you first start  
 15:08:29 19 having those feelings?  
 15:08:34 20 A. I guess very young.  
 15:08:38 21 Q. Well, you were there as early as  
 15:08:42 22 eight years of age, and then on and off until  
 15:08:47 23 your late 20s, 27, something like that, is that  
 15:08:50 24 right?  
 15:08:50 25 A. Correct.

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15:08:51 1 Q. How early were those feelings of  
 15:08:51 2 guilt?  
 15:08:55 3 A. Like I said, early on.  
 15:08:57 4 Q. Even before the age of ten?  
 15:09:00 5 A. Yeah.  
 15:09:00 6 Q. Okay. And were those generated by  
 15:09:04 7 you, internally to you, or were these generated  
 15:09:07 8 by comments from other people about the dump  
 15:09:12 9 and your being associated with it through your  
 15:09:14 10 family?  
 15:09:14 11 MR. ROMINE: I'm going to object to  
 15:09:17 12 the line of questioning on relevance.  
 15:09:21 13 THE WITNESS: I'm -- could you  
 15:09:24 14 restate it maybe one more time?  
 15:09:24 15 BY MR. EDDY:  
 15:09:28 16 Q. Are these feelings of guilt that  
 15:09:29 17 you have told us that started fairly young in  
 15:09:32 18 your life about being associated with the dump,  
 15:09:34 19 were they generated out of your own internal  
 15:09:40 20 moral sense, if you will?  
 15:09:42 21 Or were they feelings of guilt  
 15:09:43 22 that were sort of put upon you because of  
 15:09:47 23 comments of third parties about the dump and  
 15:09:49 24 you being associated with it?  
 15:09:50 25 MR. ROMINE: Same objection.

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15:09:50 1 BY MR. EDDY:  
 15:09:51 2 Q. In other words, if there was  
 15:09:52 3 something bad your family being associated with  
 15:09:54 4 the dump that people told you about, and,  
 15:09:56 5 therefore, you had some feelings of guilt  
 15:09:59 6 associated with what you were told.  
 15:10:00 7 MR. ROMINE: Same objection.  
 15:10:02 8 THE WITNESS: The first would have  
 15:10:03 9 came out of -- when I was youngest out of -- I  
 15:10:09 10 thought it was sad that -- that -- so much waste.  
 15:10:10 11 Then later in years, it was because  
 15:10:13 12 of your second comment, that as I learned  
 15:10:16 13 different things that I found through studying  
 15:10:19 14 that the -- things weren't -- and then guilt.  
 15:10:25 15 BY MR. EDDY:  
 15:10:25 16 Q. I'm sorry, that things weren't  
 15:10:27 17 what?  
 15:10:28 18 A. That things weren't handled the  
 15:10:44 19 way I thought it should be done, and -- and  
 15:10:49 20 then the guilt was when I was like pouring out  
 15:10:52 21 stuff out of those cans -- like 55-gallon  
 15:10:56 22 drums, I thought what I am doing, you know.  
 15:11:04 23 Q. What is Agenda 21?  
 15:11:07 24 MR. ROMINE: Objection. Relevance.  
 15:11:09 25 THE WITNESS: You don't have all day,

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15-11:10 1 but do you want me to generalize it?

15-11:13 2 BY MR. EDDY:

15-11:13 3 Q. Briefly.

15-11:13 4 A. Huh?

15-11:14 5 Q. Briefly can you tell me what

15-11:14 6 Agenda 21 is? You -- you mentioned it

15-11:17 7 yesterday, and I'd like to know what it is.

15-11:18 8 A. Agenda 21 is -- basically was

15-11:24 9 brought up in Rio de Janeiro, I think it is,

15-11:29 10 and Clinton signed a -- or signed in to Agenda

15-11:28 11 21 to better the earth.

15-11:29 12 Q. Are you a member of any

15-11:30 13 organization or associated with any

15-11:32 14 organization in the State of Ohio, Michigan or

15-11:39 15 North Carolina, Agenda 21 Ohio, Agenda 21 North

15-12:00 16 Carolina? Are you involved in any

15-12:02 17 organizations associated with Agenda 21?

15-12:05 18 A. No.

15-12:08 19 Q. This is just something you've read

15-12:07 20 about on your own?

15-12:09 21 A. Correct.

15-12:09 22 Q. And Agenda 21 is about sustainable

15-12:12 23 development in part?

15-12:12 24 A. Correct.

15-12:13 25 Q. And what does -- you believe that

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15-12:17 1 your testimony in this case is part of a

15-12:18 2 clearing of your conscience with respect to

15-12:19 3 what went on at the dump and the principles

15-12:19 4 associated with Agenda 21?

15-12:41 5 A. Correct.

15-12:57 6 Q. The reading that you've done about

15-12:59 7 Agenda 21, is this all on-line or have you

15-13:02 8 purchased any written materials and books and

15-13:05 9 pamphlets, whatever that you've read about?

15-13:07 10 MR. ROMINE: Objection as to

15-13:08 11 relevance.

15-13:11 12 THE WITNESS: It started by

15-13:16 13 literature that I had read and then a couple

15-13:22 14 meetings I went to, and then on-line, and then

15-13:29 15 talking to various individuals around.

15-13:34 16 And at one point, I was convinced of

15-13:37 17 one aspect of it when I was working down in

15-13:39 18 Florida last year and talked to the next door

15-13:42 19 neighbor.

15-13:43 20 BY MR. EDDY:

15-13:43 21 Q. Do you have any of these books or

15-13:45 22 pamphlets that you've read at home?

15-13:47 23 A. Yes.

15-13:47 24 Q. Okay. Can you give me the titles

15-13:50 25 of them if I wanted to read them and understand

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15-13:56 1 better your involvement with that?

15-13:57 2 A. Well, one would be the Watchtower

15-14:04 3 magazine out of Brooklyn, New York. The New

15-14:08 4 American. The John Birch Society. I think

15-14:21 5 that's it.

15-14:22 6 Q. What is the New American, is that

15-14:23 7 a publication, a periodical?

15-14:25 8 A. Correct.

15-14:27 9 Q. Okay. And the meetings -- what

15-14:29 10 were these meetings that you went to that

15-14:32 11 related to Agenda 21?

15-14:36 12 A. It actually wasn't about Agenda

15-14:38 13 21, but it was in the same aspect of it.

15-14:41 14 Q. Which is what?

15-14:42 15 A. It was John Birch's Society.

15-14:45 16 Q. Okay. Where -- is that here in

15-14:46 17 Ohio or down in North Carolina?

15-14:48 18 A. Here in Ohio.

15-14:50 19 Q. And when was the last time you

15-14:51 20 went to such a meeting?

15-14:56 21 A. It was in -- I think I went twice,

15-14:59 22 and it was in spring of '95, I believe.

15-15:03 23 Q. I think I'm done here. Were you a

15-15:14 24 party to the 2006 administrative order on

15-15:20 25 consent relating to the dump and the US EPA?

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15-16:23 1 A. Pardon me?

15-16:24 2 Q. Were you a -- a party to the 2006

15-16:34 3 ASAOC, the administrative order on consent with

15-16:38 4 the US EPA relating to the South Dayton Dump?

15-16:39 5 A. No, I was not.

15-16:46 6 Q. Okay. You indicated that you

15-16:45 7 entered into a settlement agreement with the US

15-16:50 8 EPA?

15-16:50 9 A. Correct.

15-16:51 10 Q. What year?

15-16:56 11 A. '99, I believe.

15-16:57 12 Q. And you indicated that this had

15-17:01 13 impacted your inheritance from your father?

15-17:03 14 A. Correct.

15-17:04 15 Q. And there was -- I think you

15-17:06 16 mentioned something on the order of two hundred

15-17:09 17 thousand dollars that would have come to you as

15-17:11 18 one of the heirs actually went to the United

15-17:14 19 States government, and then after the

15-17:17 20 settlement, you got back from the government

15-17:20 21 about a hundred and forty thousand dollars, is

15-17:22 22 that correct?

15-17:22 23 A. It wasn't quite that way, but it

15-17:24 24 was close.

15-17:26 25 Q. Well, what is the way that it

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15:17:28 1 worked, can you tell me that?  
 15:17:30 2 MR. ROMINE: Objection. It goes  
 15:17:31 3 beyond the scope of the direct and it rehashes  
 15:17:34 4 testimony from 2012 unnecessarily in violation of  
 15:17:36 5 Judge Rice's order.

15:17:38 6 THE WITNESS: Between our EPA -- I  
 15:17:41 7 call them EPA retainers, but they were EPA  
 15:17:44 8 attorneys that went on their own and that started  
 15:17:47 9 a firm here in Dayton that represented the  
 15:17:52 10 Boesch/Grillot estate, and they made a deal with  
 15:17:55 11 the EPA that our part of involvement --  
 15:18:02 12 involvement on the dump would be divided between  
 15:18:11 13 the parties of the -- Boesch, Alcine Grillot and  
 15:18:18 14 Leone and the heirs of the children.

15:18:18 15 BY MR. EDDY:

15:18:28 16 Q. All right. As a result of this  
 15:18:29 17 agreement, was your personal inheritance from  
 15:18:30 18 your father's estate affected?

15:18:33 19 A. Yes, it was.

15:18:36 20 Q. Okay. Was there an amount of  
 15:18:37 21 money that you would have gotten from the  
 15:18:39 22 estate that you didn't get because of the  
 15:18:43 23 involvement of the US EPA and the South Dayton  
 15:18:47 24 Dump and how it impacted your father's estate?

15:18:49 25 MR. ROMINE: Same objection.

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15:18:50 1 THE WITNESS: Yes.

15:18:51 2 BY MR. EDDY:

15:18:52 3 Q. Okay. How much didn't you get  
 15:18:52 4 that you otherwise would have gotten?

15:18:55 5 MR. ROMINE: Same objection.

15:18:57 6 THE WITNESS: Around seventy thousand  
 15:18:57 7 dollars.

15:18:59 8 BY MR. EDDY:

15:19:02 9 Q. Okay. All right. I'm not sure I  
 15:19:04 10 said that right. If I -- am I correct then  
 15:19:08 11 that you have a -- what you believe to be a  
 15:19:14 12 personal loss to you of about seventy thousand  
 15:19:19 13 dollars that you did not get from your father's  
 15:19:22 14 estate as an inheritance because of the  
 15:19:24 15 settlement with the US EPA, is that correct?

15:19:24 16 MR. ROMINE: Same objection.

15:19:27 17 THE WITNESS: No.

15:19:27 18 BY MR. EDDY:

15:19:28 19 Q. All right. Could you explain to  
 15:19:29 20 me what you didn't get?

15:19:32 21 A. On paper or off paper?

15:19:34 22 Q. Well, let's start with on paper.

15:19:36 23 MR. ROMINE: Same objection.

15:19:38 24 THE WITNESS: Right around

15:19:44 25 five million dollars.

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15:19:45 1 BY MR. EDDY:

15:19:48 2 Q. Okay. And that would have been  
 15:19:47 3 money in your pocket?

15:19:49 4 A. It would be split between --

15:19:52 5 Q. All the heirs?

15:19:52 6 MR. ROMINE: Objection.

15:19:53 7 THE WITNESS: -- the remaining wife  
 15:19:54 8 and the siblings.

15:19:54 9 BY MR. EDDY:

15:19:55 10 Q. Okay. And your -- what share of  
 15:19:58 11 that would you individually have gotten --

15:20:00 12 MR. ROMINE: Same objection.

15:20:01 13 BY MR. EDDY:

15:20:02 14 Q. -- do you believe?

15:20:04 15 A. A little more than a million.

15:20:07 16 Q. And you believe that to be a  
 15:20:11 17 million dollar loss to you that you've  
 15:20:13 18 sustained because of the involvement with the  
 15:20:18 19 US EPA?

15:20:18 20 MR. ROMINE: Same objection.

15:20:17 21 THE WITNESS: Correct.

15:20:17 22 BY MR. EDDY:

15:20:17 23 Q. All right.

15:20:18 24 A. On paper.

15:20:19 25 Q. On paper. And now off paper, what

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15:20:22 1 are you referring to?

15:20:24 2 A. Some of Dad's closest friends told  
 15:20:31 3 us the last time they heard that --

15:20:34 4 Q. They sold the last time? I'm  
 15:20:38 5 not --

15:20:35 6 A. The last time I talked to some of  
 15:20:38 7 Dad's old acquaintances, really close, and they  
 15:20:41 8 had told my son that Dad had either told them  
 15:20:49 9 or showed them or whatever, that his net worth  
 15:20:52 10 was worth twelve million dollars.

15:21:11 11 Q. Have you been told in any way,  
 15:21:14 12 shape or form by anybody that if the plaintiffs  
 15:21:22 13 receive any kind of recovery in this lawsuit,  
 15:21:25 14 that you will get any part of it?

15:21:26 15 A. Oh, no.

15:21:27 16 Q. Either you or any of your family  
 15:21:29 17 members?

15:21:31 18 A. From what's going on now?

15:21:32 19 Q. Yes.

15:21:33 20 A. No. No.

15:21:34 21 MR. EDDY: I don't have anything  
 15:21:36 22 further. Thank you very much.

15:21:38 23 THE WITNESS: Thank you.

15:21:40 24 CROSS-EXAMINATION

15:21:55 25 BY MR. STINSON:

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15:22:11 1 Q. Good afternoon, Mr. Grillo. My  
15:22:12 2 name is Peter Stinson, and I represent PPG  
15:22:14 3 Industries. I want to make sure before I start  
15:22:18 4 that you're feeling okay to testify now?  
15:22:20 5 A. Yes, sir.  
15:22:21 6 Q. Okay. I want to ask you about one  
15:22:24 7 of the companies you identified yesterday that  
15:22:26 8 you associated with the South Dayton Dump  
15:22:31 9 Landfill, a company you called Pittsburgh  
15:22:33 10 Paint. Do you remember your testimony on that?  
15:22:36 11 A. Yes, I do.  
15:22:36 12 MR. WICK: Peter, could you speak up,  
15:22:38 13 please?  
15:22:38 14 MR. STINSON: Sure.  
15:22:38 15 BY MR. STINSON:  
15:22:39 16 Q. As I understand your career,  
15:22:43 17 history at various times you've done painting,  
15:22:47 18 correct?  
15:22:47 19 A. Correct.  
15:22:48 20 Q. And you painted for the -- in part  
15:22:51 21 for the -- the A.E. Pickert Company?  
15:22:51 22 A. Correct.  
15:22:54 23 Q. And then you painted at other  
15:22:56 24 locations as well?  
15:22:58 25 A. Yes.

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15:22:58 1 Q. Okay. And are you familiar with  
15:23:02 2 any kind of painting operation, and I mean by  
15:23:06 3 that, any manufacturing operation that  
15:23:07 4 Pittsburgh Paint has in the Dayton area?  
15:23:12 5 A. To my knowledge, I don't think so.  
15:23:12 6 Q. Are you aware of any -- any retail  
15:23:17 7 stores that were owned by Pittsburgh Paint  
15:23:21 8 during the time that you were associated with  
15:23:24 9 the dump?  
15:23:28 10 A. All I remember is one, and I'm  
15:23:30 11 strongly leaning towards Durrel, had a line, I  
15:23:34 12 think, of Pittsburgh.  
15:23:39 13 Q. All right. And you said Durrel.  
15:23:41 14 What do you mean by that, sir?  
15:23:42 15 A. Durrel was another local  
15:23:46 16 manufacturing of making paint and distributing  
15:23:49 17 in the Dayton area.  
15:23:50 18 Q. All right. So Durrel manufactures  
15:23:55 19 paint or did manufacture paint in the Dayton  
15:23:56 20 area during the time that the site operated,  
15:23:58 21 that's your understanding?  
15:23:58 22 A. Correct.  
15:23:59 23 Q. And it's also your understanding  
15:24:02 24 that during that time, Durrel made a brand of  
15:24:04 25 paint for Pittsburgh Paint at that location?

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15:24:07 1 A. No.  
15:24:08 2 Q. All right. Explain to me then the  
15:24:11 3 connection between Durrel and Pittsburgh Paint  
15:24:18 4 as it relates to the paint in the Dayton area.  
15:24:23 5 A. That Durrel carried Pittsburgh  
15:24:26 6 Paint with the name on it as a -- like a side  
15:24:31 7 line in their stores.  
15:24:33 8 Q. So the -- the Durrel, in its  
15:24:37 9 store, sold Pittsburgh Paint that was labeled  
15:24:37 10 Pittsburgh Paint?  
15:24:37 11 A. Right.  
15:24:41 12 Q. Did -- was that paint that was  
15:24:44 13 labeled Pittsburgh Paint also labeled Durrel  
15:24:44 14 paint?  
15:24:45 15 A. No. No. No.  
15:24:48 16 Q. So Durrel simply sold some of the  
15:24:51 17 Pittsburgh brand out of its stores, that's your  
15:24:53 18 understanding?  
15:24:53 19 A. Yes, sir.  
15:24:53 20 Q. And otherwise, you're aware of no  
15:24:56 21 retail outlets -- stores in the Dayton area  
15:25:02 22 that were owned by Pittsburgh Paint during the  
15:25:04 23 time that the landfill operated?  
15:25:07 24 A. I believe there was one on Salem  
15:25:12 25 Avenue.

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15:25:12 1 Q. Any others?  
15:25:16 2 A. Not to my knowledge.  
15:25:17 3 Q. Where is Salem Avenue?  
15:25:19 4 A. Northwest of Dayton.  
15:25:22 5 Q. Can you be more specific than  
15:25:26 6 that?  
15:25:26 7 A. It runs from downtown out to  
15:25:38 8 Englewood area. It's pretty much in line with  
15:25:44 9 Main Street, which would be Route 48, and Salem  
15:25:49 10 is Route 49.  
15:25:54 11 And I think it was -- the  
15:25:57 12 cross-section would have been around  
15:26:00 13 Siebenthaler area on the right side.  
15:26:04 14 Q. Cross-section of Sieben --  
15:26:08 15 A. Thaler.  
15:26:09 16 Q. -- thaler and --  
15:26:10 17 A. And Salem.  
15:26:10 18 Q. -- Salem?  
15:26:10 19 A. Salem Avenue.  
15:26:12 20 Q. And your understanding was there  
15:26:13 21 was a Pittsburgh retail outlet at that  
15:26:16 22 location?  
15:26:16 23 A. Correct.  
15:26:17 24 Q. And during what years did that  
15:26:19 25 operate?

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15:26:32 1 A. '70s, I believe.

15:26:38 2 Q. Can you be more specific than

15:26:38 3 that, sir?

15:26:39 4 A. '72 to '75.

15:26:34 5 Q. So it operated at that location

15:26:36 6 for a total of three years?

15:26:40 7 A. I don't -- I just remember because

15:26:41 8 I did a lot of work out that side of town, and

15:26:44 9 I just remember seeing them open. I think I

15:26:48 10 might have bought some stuff out of there,

15:26:51 11 supplies and stuff, so --

15:26:52 12 Q. And that's when you were working

15:26:54 13 as a painter?

15:26:54 14 A. Right.

15:26:55 15 Q. And you think that was in the '72

15:26:56 16 through '75 time frame?

15:26:58 17 A. Right.

15:26:58 18 Q. Okay. Other than this Salem

15:27:00 19 Avenue location, is there any other location in

15:27:03 20 the Dayton area that -- where a paint store was

15:27:07 21 owned by Pittsburgh Paint, to your knowledge?

15:27:09 22 A. Not to my knowledge.

15:27:11 23 Q. And you're not aware of any

15:27:13 24 manufacturing operations in the Dayton area

15:27:14 25 either, are you?

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15:27:17 1 A. No, sir.

15:27:18 2 Q. All right. Now, do you remember

15:27:21 3 your testimony yesterday with respect to

15:27:21 4 Pittsburgh Paint?

15:27:29 5 A. I've talked so much, sir, I

15:27:31 6 don't -- I mean, I'm sorry.

15:27:32 7 Q. I appreciate that. Okay. Well,

15:27:35 8 let me -- let me ask you, you testified -- let

15:27:38 9 me see if this jogs your memory. You testified

15:27:40 10 you associated certain waste materials that

15:27:43 11 were brought to the dump to Pittsburgh Paint.

15:27:49 12 Do you remember that --

15:27:49 13 A. Yes.

15:27:50 14 Q. -- testimony, sir? Do you know

15:27:51 15 where that -- those materials, that is, the

15:27:53 16 Pittsburgh Paint materials you testified to

15:27:55 17 yesterday, where they came from?

15:27:58 18 A. No, sir.

15:28:00 19 Q. All right. Is it your

15:28:01 20 understanding that the materials you testified

15:28:05 21 to yesterday, the -- the paint materials, the

15:28:08 22 drywall, the plaster paris, that that came from

15:28:11 23 a construction project at some offsite

15:28:15 24 location?

15:28:17 25 A. I don't remember saying that.

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15:28:18 1 Q. Well, where -- let me ask you

15:28:21 2 then. You -- you associated Pittsburgh Paint

15:28:27 3 with a number of materials at the landfill

15:28:31 4 yesterday, and I understand you recall that

15:28:33 5 testimony, correct?

15:28:34 6 A. Right now vaguely, yes.

15:28:36 7 Q. Okay. Well, where did those

15:28:39 8 materials come from?

15:28:44 9 A. Like I said right now, I can't

15:28:48 10 remember.

15:28:48 11 Q. All right. Do you know whether

15:28:49 12 they came from this retail outlet on Salem

15:28:49 13 Avenue?

15:28:55 14 A. I wouldn't have that knowledge.

15:28:57 15 Q. Now, did the Salem Avenue store,

15:29:01 16 do you recall, did it sell anything other than

15:29:04 17 just paint?

15:29:07 18 A. Did they sell anything but --

15:29:08 19 other than paint?

15:29:09 20 Q. Paint, it was just a paint store?

15:29:09 21 A. Um-hum.

15:29:11 22 Q. Did they sell plaster paris, do

15:29:13 23 you recall?

15:29:13 24 A. Yes.

15:29:15 25 Q. Do you recall whether they sold

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15:29:18 1 drywall?

15:29:19 2 A. Yes. And something is starting to

15:29:21 3 come back now, so I -- yes.

15:29:23 4 Q. So this drywall was sold out of --

15:29:27 5 A. Drywall powder. Not drywall --

15:29:27 6 Q. It was a powder. Okay.

15:29:28 7 A. -- drywall powder.

15:29:29 8 Q. Okay. Was sold out of this

15:29:31 9 Pittsburgh Paint retail outlet on Salem Avenue?

15:29:34 10 A. Yes.

15:29:34 11 Q. And what other material was sold

15:29:38 12 out of that outlet?

15:29:39 13 A. Ladders, paint brushes, anything

15:29:44 14 that would be used to either prep or do

15:29:48 15 painting. Spray equipment.

15:29:52 16 Q. How about skids?

15:29:59 17 MR. ROMINE: Objection. Vague.

15:29:59 18 BY MR. STINSON:

15:30:04 19 Q. We've been talking about them for

15:30:05 20 two days, skids. How about skids, did they

15:30:08 21 sell skids out of that location?

15:30:10 22 A. Well, I'm still not completely

15:30:13 23 remembering what was talked about yesterday and

15:30:17 24 what -- what -- go on. I'm sorry. Go on.

15:30:26 25 Q. Okay. I just wanted to ask you

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15:30:29 1 whether skids were sold out of the Salem Avenue  
 15:30:32 2 outlet that you've been talking about.  
 15:30:34 3 A. Well, skids wouldn't be sold, no.  
 15:30:35 4 Q. Did you know any of the people who  
 15:30:47 5 worked at this Salem Avenue location?  
 15:30:50 6 A. No.  
 15:30:50 7 Q. Do you know whether they were  
 15:30:53 8 PPG -- whether they were Pittsburgh Paint  
 15:30:57 9 employees?  
 15:30:57 10 A. I wouldn't have that knowledge.  
 15:31:04 11 Q. And -- and your first time there  
 15:31:08 12 was in the -- this '72, '75 time frame when you  
 15:31:09 13 working not at the landfill, but working doing  
 15:31:13 14 painting?  
 15:31:13 15 A. Yes.  
 15:31:13 16 Q. All right. Yesterday you  
 15:31:22 17 described a drywall product that you said that  
 15:31:31 18 was more like a powder, as I recall, is that  
 15:31:34 19 right?  
 15:31:34 20 A. Correct.  
 15:31:34 21 Q. And you're talking now about that  
 15:31:36 22 material that was sold out of the Salem Avenue  
 15:31:39 23 location?  
 15:31:44 24 A. I believe so.  
 15:31:47 25 Q. And can you describe that for me?

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15:31:52 1 A. The material?  
 15:31:53 2 Q. Yeah.  
 15:32:01 3 A. With most stores, I wouldn't know.  
 15:32:04 4 They carry various products from different  
 15:32:07 5 companies, or, you know, it might be made by  
 15:32:10 6 somebody else, but it was a bag of powder,  
 15:32:12 7 probably 18 inches by 12 by about three inches  
 15:32:20 8 thick, and one would say plaster of paris and  
 15:32:24 9 the other would say Vastrine (phonetic)  
 15:32:29 10 compound, I think is what it was.  
 15:32:30 11 Q. Is this -- either one of those  
 15:32:38 12 separate from the plaster paris material that  
 15:32:40 13 you described yesterday?  
 15:32:41 14 A. Correct.  
 15:32:43 15 Q. And describe what the plaster  
 15:32:48 16 paris material is.  
 15:32:48 17 A. It was in a little bit bigger bag,  
 15:32:48 18 probably 24 by 18 maybe 15 inches and three  
 15:32:52 19 inches.  
 15:32:52 20 Q. And who made -- do you know what  
 15:32:55 21 manufactured that?  
 15:32:55 22 A. I don't know, no.  
 15:32:56 23 Q. How about the drywall?  
 15:32:59 24 A. I don't know.  
 15:33:00 25 Q. How about the powder material that

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15:33:02 1 you just referenced?  
 15:33:03 2 A. I don't know.  
 15:33:04 3 Q. Have you ever -- ever talked to  
 15:33:10 4 anybody who was employed or affiliated with  
 15:33:13 5 Pittsburgh Paint about the South Dayton  
 15:33:16 6 Landfill?  
 15:33:16 7 A. No, sir.  
 15:33:17 8 Q. Now, you testified -- or as I  
 15:33:28 9 understand from your testimony, sir, that there  
 15:33:33 10 was a fair amount of construction demolition  
 15:33:36 11 debris that at various times was brought into  
 15:33:39 12 the dump, is that correct?  
 15:33:40 13 A. Correct.  
 15:33:40 14 Q. And you described that material  
 15:33:42 15 as -- as drywall?  
 15:33:44 16 A. Yes.  
 15:33:44 17 Q. All right. As skids?  
 15:33:48 18 A. Yes.  
 15:33:50 19 Q. As paint materials?  
 15:33:54 20 A. I'm -- I'm getting a little  
 15:33:56 21 confused right now only because my mind's  
 15:34:01 22 trying to focus on where we put -- on the  
 15:34:06 23 second pier where we put household things and  
 15:34:09 24 then -- but any powder form or anything like  
 15:34:13 25 that would go down in the pit to soak up the

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15:34:15 1 materials and stuff like that, but --  
 15:34:16 2 Q. All right. I appreciate it. I  
 15:34:19 3 was just trying to see if I could summarize.  
 15:34:21 4 The material that would come into the site from  
 15:34:23 5 whatever source when you characterize it as  
 15:34:26 6 construction materials, okay?  
 15:34:26 7 A. Um-hum.  
 15:34:29 8 Q. And we're talking there about  
 15:34:30 9 things like drywall, skids, paint materials,  
 15:34:34 10 that kind of thing?  
 15:34:35 11 A. Yes. Yes.  
 15:34:36 12 Q. And are you -- do you -- is it  
 15:34:37 13 fair to say that there was a fair amount of  
 15:34:39 14 that material that was brought in during the  
 15:34:42 15 operation of the landfill?  
 15:34:52 16 A. I wanted to go to how it became  
 15:35:00 17 known to me and remembered about Pittsburgh  
 15:35:03 18 Paint, and I haven't really had thought  
 15:35:07 19 about -- much more about Pittsburgh Paint, so I  
 15:35:12 20 really haven't focused on it, you know, as much  
 15:35:17 21 as other -- everything's -- there's so many  
 15:35:19 22 companies and companies that were associated  
 15:35:24 23 with somebody, but something that juggled my --  
 15:35:27 24 my brain, it's oh, I forgot about them.  
 15:35:30 25 Q. And I appreciate that, sir, but my

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15:35:33 1 question simply was -- I'm just trying to  
 15:35:38 2 understand generically the kind of construction  
 15:35:39 3 material that came in apart from Pittsburgh  
 15:35:41 4 Paint.  
 15:35:41 5 A. Okay.  
 15:35:46 6 Q. So you had multiple -- multiple  
 15:35:47 7 sources were bringing construction debris to  
 15:35:51 8 the landfill, correct?  
 15:35:51 9 A. Correct, um-hum.  
 15:35:52 10 Q. And those were the general kinds  
 15:35:55 11 of materials we're talking about, drywall,  
 15:35:57 12 paint materials?  
 15:35:57 13 A. Okay. Yes.  
 15:35:58 14 Q. All right.  
 15:35:58 15 A. Now I see where you're going.  
 15:36:00 16 Okay. Yeah. Sorry.  
 15:36:02 17 Q. Now, yesterday when you talked  
 15:36:05 18 about the PPG material -- or the Pittsburgh  
 15:36:09 19 Paint material that you associated with  
 15:36:10 20 Pittsburgh Paint, was that part of one of these  
 15:36:16 21 construction debris projects that would come  
 15:36:18 22 into the site?  
 15:36:18 23 A. Possibly.  
 15:36:21 24 Q. Do you have any other idea what it  
 15:36:23 25 could have been, other than the construction

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15:36:25 1 project?  
 15:36:31 2 A. Not at this time.  
 15:36:39 3 Q. I understand from reading your  
 15:36:42 4 testimony in April, 2012, that from time to  
 15:36:46 5 time you would go around and look at the  
 15:36:52 6 various customers of the landfill.  
 15:36:56 7 You would go to their location and  
 15:37:00 8 look because you wanted -- out of curiosity,  
 15:37:00 9 you wanted to see what kind of -- what kind of  
 15:37:03 10 a production system they had.  
 15:37:04 11 A. Right, um-hum.  
 15:37:08 12 Q. Do you recall that?  
 15:37:08 13 A. Yes.  
 15:37:08 14 Q. All right. And there were --  
 15:37:08 15 among people -- Pittsburgh Paint was not one of  
 15:37:10 16 those facilities, was it?  
 15:37:11 17 A. No, sir.  
 15:37:11 18 Q. Okay. So you didn't go out to  
 15:37:13 19 this Salem Avenue location at any point, except  
 15:37:18 20 to buy paint in the '70s?  
 15:37:21 21 A. No.  
 15:37:25 22 Q. Did you ever talk to any of the  
 15:37:29 23 drivers of the material that you associate with  
 15:37:33 24 the PPG material that you testified to  
 15:37:36 25 yesterday?

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15:37:56 1 A. I could have.  
 15:37:58 2 Q. Do you know who those drivers were  
 15:38:01 3 employed by?  
 15:38:02 4 A. Some from A.E. Fickert, and I  
 15:38:02 5 don't remember right now, but --  
 15:38:02 6 Q. Okay. And some of the drivers  
 15:38:03 7 from A.E. Fickert would bring in the -- the  
 15:38:09 8 material that you described yesterday that you  
 15:38:11 9 associated with P -- with Pittsburgh Paint?  
 15:38:01 10 A. Correct.  
 15:38:13 11 MR. STINSON: Thank you, sir.  
 15:38:14 12 THE WITNESS: You're welcome.  
 15:38:14 13 CROSS-EXAMINATION  
 15:38:14 14 BY MS. RHINEHART:  
 15:38:15 15 Q. Hi, Mr. Grillo. My name is Erin  
 15:38:17 16 Rhinehart. I represent Cox Media Group, Ohio.  
 15:38:40 17 How you feeling?  
 15:38:40 18 A. Okay.  
 15:38:41 19 Q. Okay. Are you still able to give  
 15:38:43 20 truthful and accurate testimony?  
 15:38:44 21 A. Yes, ma'am.  
 15:38:45 22 Q. Okay. You testified yesterday  
 15:38:47 23 that the Dayton Daily News and the Journal  
 15:38:50 24 Herald were customers of the dump, is that  
 15:38:51 25 correct?

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15:38:51 1 A. Correct.  
 15:38:52 2 Q. And do you recall having a  
 15:38:54 3 conversation regarding certain customers being  
 15:38:59 4 regular industrial customers and then there  
 15:40:01 5 were residential customers and then there was a  
 15:40:02 6 third category?  
 15:40:05 7 A. No.  
 15:40:06 8 Q. Okay. Did the Dayton Daily News  
 15:40:08 9 have a charge with the dump?  
 15:40:15 10 A. I believe so.  
 15:40:16 11 Q. And what makes you believe that?  
 15:40:18 12 A. Because they were pretty regular.  
 15:40:20 13 Q. And what about the Journal Herald,  
 15:40:22 14 did they have a charge?  
 15:40:25 15 A. I think I made a statement  
 15:40:29 16 yesterday that I thought they were both the  
 15:40:30 17 same, you know, company.  
 15:40:35 18 Q. Okay. And did the dump consider  
 15:40:36 19 the Dayton Daily News and the Journal Herald  
 15:40:39 20 one entity or one customer?  
 15:40:41 21 A. Yes.  
 15:40:41 22 Q. Okay. If you can take a look  
 15:40:45 23 at -- this was originally marked as Exhibit 3  
 15:40:47 24 to your 2012 deposition, and I believe it's  
 15:40:49 25 been marked as exhibit -- Defendants' Exhibit 2

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15:40:51 1 today, and these are copies of the dump  
 15:40:51 2 tickets?  
 15:40:55 3 A. Correct.  
 15:40:56 4 Q. And do you have a specific  
 15:40:57 5 recollection of seeing a dump ticket with the  
 15:41:01 6 Dayton Daily News written on it?  
 15:41:03 7 A. I don't remember at this time.  
 15:41:06 8 Q. Okay. What about a dump ticket  
 15:41:07 9 with the Journal Herald written on it?  
 15:41:09 10 A. Not at this time.  
 15:41:10 11 Q. What would have been written on a  
 15:41:12 12 dump ticket for that customer?  
 15:41:12 13 MR. ROMINE: Objection.  
 15:41:12 14 Hypothetical.  
 15:41:12 15 THE WITNESS: I don't know at this  
 15:41:12 16 time.  
 15:41:24 17 BY MS. RHINEHART:  
 15:41:26 18 Q. I believe yesterday you testified  
 15:41:29 19 that under certain circumstances when Kenny was  
 15:41:31 20 unavailable, you would have written out the  
 15:41:34 21 dump tickets, is that correct?  
 15:41:34 22 A. Correct, um-hum.  
 15:41:35 23 Q. When the Dayton Daily News or  
 15:41:37 24 Journal Herald came to deliver something to the  
 15:41:40 25 dump, if you were there to take that ticket or

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15:41:43 1 write that ticket out, what would you have  
 15:41:45 2 written on the ticket to denote that that was  
 15:41:46 3 the Dayton Daily News or the Journal Herald?  
 15:41:49 4 A. Because it would -- personally I  
 15:41:54 5 don't remember making a ticket out for either  
 15:41:56 6 entity of both the papers, so I just remember,  
 15:42:07 7 I think, trucks, I think. White panel trucks,  
 15:42:10 8 I think, is what.  
 15:42:14 9 Q. So you have no specific  
 15:42:15 10 recollection of writing out a dump ticket for  
 15:42:18 11 either the Dayton Daily News or Journal Herald.  
 15:42:20 12 is that correct?  
 15:42:20 13 A. No.  
 15:42:20 14 Q. Okay. And then let me -- I just  
 15:42:24 15 want to make sure I understand your testimony  
 15:42:26 16 from yesterday as to the waste that the Dayton  
 15:42:29 17 Daily News and Journal Herald would have  
 15:42:30 18 brought to the dump.  
 15:42:32 19 It consisted of old newspapers,  
 15:42:33 20 wood pallets and steel tubes that the  
 15:42:36 21 newspapers would have been in, is that correct?  
 15:42:38 22 A. No, they were like newspaper --  
 15:42:45 23 where you put the newspaper in, you put money  
 15:42:48 24 in to get the newspaper, they're like a metal  
 15:42:51 25 stand.

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15:43:51 1 Q. Okay. Would they have been empty  
 15:43:53 2 when they came to the dump?  
 15:43:54 3 A. Yes.  
 15:43:55 4 Q. Okay. So aside from the old  
 15:43:57 5 newspapers, wood pallets and the steel tubes,  
 15:43:01 6 as you referred to them, there was no other  
 15:43:03 7 waste that the Dayton Daily News or Journal  
 15:43:06 8 Herald dumped at the site, correct?  
 15:43:07 9 A. Correct.  
 15:43:07 10 Q. Where would the steel tubes have  
 15:43:14 11 been dumped at the site?  
 15:43:14 12 MR. ROMINE: Objection. He didn't  
 15:43:17 13 say tubes, he said boxes.  
 15:43:18 14 THE WITNESS: It wasn't the tube.  
 15:43:20 15 Are you referring to the --  
 15:43:20 16 BY MS. RHINEHART:  
 15:43:23 17 Q. The steel boxes?  
 15:43:23 18 A. The steel boxes.  
 15:43:25 19 Q. Sorry if I misinterpreted that.  
 15:43:26 20 A. That's okay.  
 15:43:27 21 Q. So you were referring to steel  
 15:43:28 22 boxes then that the papers were in?  
 15:43:28 23 A. Right. Yes.  
 15:43:30 24 Q. Where would those -- the empty  
 15:43:32 25 steel boxes, would that have been dumped at the

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15:43:32 1 site?  
 15:43:33 2 A. It would depend whether they'd  
 15:43:35 3 have a concrete slab they sat on or if they  
 15:43:37 4 just came without the slab.  
 15:43:39 5 Q. Okay. And if they came with the  
 15:43:42 6 slab, where would they have been dumped?  
 15:43:44 7 A. Down on -- on -- in the pit.  
 15:43:47 8 Q. Okay. And what about without?  
 15:43:49 9 A. It would go to the metal pile  
 15:43:52 10 where we kept steel for recycling.  
 15:43:54 11 Q. And would you have been able to  
 15:43:56 12 reuse that metal?  
 15:43:59 13 A. Yes.  
 15:43:59 14 Q. Okay. And do you have a specific  
 15:44:01 15 recollection of reusing the metal that would  
 15:44:05 16 have been disposed of from the newspapers?  
 15:44:07 17 A. I don't understand being more  
 15:44:15 18 specific. They were sent to salvage yard, so  
 15:44:19 19 we didn't use some of the material off of them,  
 15:44:23 20 but they were salvaged.  
 15:44:24 21 Q. I understand. Okay. Thank you.  
 15:44:27 22 And where would the paper products -- the  
 15:44:29 23 new -- old newspapers, shredded papers, where  
 15:44:31 24 would that have been dumped at the site?  
 15:44:34 25 A. Through different years until

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15:44:41 1 Larry Brandon purchased those trash trucks,  
15:44:46 2 they were buried, and then the others were --  
15:44:52 3 when Larry Brandon started the recycling of  
15:44:54 4 newspapers, they'd go to his Dayton Fiber, they  
15:44:59 5 were recycled.

15:45:00 6 Q. And what about the wood pallets,  
15:45:02 7 would those have been burned in the  
15:45:04 8 incinerator?

15:45:04 9 A. Correct.

15:45:05 10 Q. Now, you had just mentioned Larry  
15:45:09 11 Brandon, and I believe yesterday you stated  
15:45:10 12 that he started in the late '60s Dayton Fiber,  
15:45:15 13 is that correct?

15:45:14 14 A. No, I think he started either  
15:45:19 15 from -- if I'm not mistaken, the latter part of  
15:45:25 16 the '60s and '70s.

15:45:24 17 Q. Okay. And once --

15:45:27 18 A. About -- I think it was '70 -- I  
15:45:33 19 don't remember.

15:45:32 20 Q. Okay. Once Larry Brandon started  
15:45:37 21 Dayton Fiber and the paper products would be  
15:45:41 22 disposed of at Dayton Fiber, did the newspapers  
15:45:42 23 continue to dump any waste at the South Dayton  
15:45:44 24 Dump?

15:45:46 25 A. Could you rephrase that again,

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15:45:47 1 please?

15:45:48 2 Q. Sure. Once Larry Brandon started  
15:45:50 3 the Dayton Fiber business and the newspapers  
15:45:52 4 would take their paper waste over to Mr.  
15:45:57 5 Brandon's facility to be used for insulation --  
15:45:58 6 is that correct?

15:45:58 7 A. Correct.

15:45:58 8 Q. Okay. Once that started taking  
15:46:00 9 place, did the newspapers still continue to  
15:46:02 10 dump waste at the site, at your South Dayton  
15:46:12 11 Dump?

15:46:12 12 A. Yes.

15:46:13 13 Q. Okay. And for how long after  
15:46:18 14 would they have continued to dump waste?

15:46:19 15 A. I'm not sure, because I think it  
15:46:25 16 had ceased at one time, but I don't remember  
15:46:27 17 what year, so I just would assume maybe Larry  
15:46:31 18 got a contract with them and they were taken  
15:46:35 19 directly over to Dayton Fiber. I'm not sure.

15:46:37 20 Q. So at one point, you do have a  
15:46:39 21 specific recollection that the newspapers  
15:46:39 22 stopped disposing waste altogether at the South  
15:46:43 23 Dayton Dump?

15:46:43 24 A. Yes.

15:46:43 25 Q. And would that have been in the

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15:46:48 1 early '70s?

15:46:48 2 A. Yes.

15:46:48 3 Q. Okay. So before 1975?

15:46:48 4 A. Oh, yeah.

15:46:48 5 Q. Okay. Would it have been before  
15:46:51 6 1970?

15:46:52 7 A. Possible.

15:46:53 8 Q. So maybe sometime between 1970,  
15:46:56 9 1971?

15:46:58 10 A. Well, like I said, the -- the  
15:47:01 11 latter part of '60s. What I'm saying, '68,  
15:47:05 12 maybe '69, '70, '71, '72, somewhere in that  
15:47:07 13 area.

15:47:07 14 Q. Okay. So at least not beyond  
15:47:09 15 1972 -- let me rephrase that. As of 1972, at  
15:47:15 16 the latest, the newspaper was no longer dumping  
15:47:18 17 any waste at the South Dayton Dump, correct?

15:47:21 18 A. Correct.

15:47:21 19 Q. How did the Dayton Daily News  
15:47:31 20 and Journal Herald transport its waste to the  
15:47:34 21 dump?

15:47:36 22 A. I think it came in white like  
15:47:41 23 moving -- moving trucks. They were off the  
15:47:43 24 ground maybe three feet and had a rollup back  
15:47:49 25 door.

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15:47:54 1 Q. Anything else you recall about  
15:47:54 2 them?

15:47:57 3 A. I think they said -- I'm not sure  
15:48:05 4 about the lettering, but there was lettering on  
15:48:07 5 the door.

15:48:07 6 Q. Any pictures?

15:48:07 7 A. Whether it was Journal Herald,  
15:48:11 8 Dayton Daily News, I'm not sure, but it  
15:48:15 9 definitely indicated, and I -- as to their  
15:48:16 10 frequency, I would know that was from Dayton --  
15:48:20 11 or from Dayton Daily News place.

15:48:23 12 Q. Now, putting aside what you saw at  
15:48:24 13 the dump, just being from the Dayton area,  
15:48:29 14 would you see Dayton Dailey News, Journal  
15:48:32 15 Herald trucks around the Dayton area?

15:48:35 16 A. Only when I delivered papers that  
15:48:38 17 they would come to a woman's garage where we'd  
15:48:41 18 get them and deliver them. That was the only  
15:48:44 19 time.

15:48:44 20 Q. Okay. You delivered Dayton Daily  
15:48:46 21 newspapers?

15:48:46 22 A. And Journal Herald, yes.

15:48:47 23 Q. And approximately when was this?

15:48:50 24 A. Right around, I think, '62, '63  
15:48:55 25 maybe.

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15:49:05 1 Q. And for how long did you deliver  
15:49:07 2 newspapers for the Dayton Daily News and  
15:49:09 3 Journal Herald?  
15:49:14 4 A. I think it was mostly in the  
15:49:17 5 wintertime when I needed some extra cash, but I  
15:49:22 6 didn't do it in the spring or summer because  
15:49:28 7 I'd be out at the dump.  
15:49:34 8 Q. For how many years, how many  
15:49:38 9 winters?  
15:49:42 10 A. About -- about two years.  
15:49:46 11 Q. Okay. And the trucks that would  
15:49:51 12 deliver the newspapers to you for you to then  
15:49:54 13 go and deliver to the customers, were those the  
15:49:58 14 same trucks that you recall seeing come to the  
15:50:02 15 dump to deliver waste?  
15:50:06 16 A. Yes.  
15:50:10 17 Q. When the trucks -- going back to  
15:50:14 18 the trucks that came to the dump, did you see  
15:50:18 19 inside those trucks?  
15:50:22 20 A. I've seen inside their trucks, but  
15:50:26 21 I don't remember looking at them at the  
15:50:30 22 landfill.  
15:50:34 23 Q. Okay. So you have no specific  
15:50:38 24 recollection of looking inside a Dayton Dailey  
15:50:42 25 News or Journal Herald truck when it was

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15:50:05 1 delivering waste to the site, correct?  
15:50:09 2 A. Correct. Correct.  
15:50:13 3 Q. Did you ever talk to one of the  
15:50:17 4 drivers of the Dayton Daily News or Journal  
15:50:21 5 Herald trucks --  
15:50:25 6 A. No.  
15:50:29 7 Q. -- when they came to the site?  
15:50:33 8 A. No.  
15:50:37 9 Q. Did you ever help unload a Dayton  
15:50:41 10 Daily News or Journal Herald truck when it came  
15:50:45 11 to the site to deliver waste?  
15:50:49 12 A. No.  
15:50:53 13 MS. RHINEHART: Thank you for your  
15:50:57 14 time. I have nothing further.  
15:51:01 15 THE WITNESS: You're welcome.  
15:51:05 16 CROSS-EXAMINATION  
15:51:09 17 BY MR. RUDLOFF:  
15:51:13 18 Q. Sir, are you doing okay?  
15:51:17 19 A. Yes.  
15:51:21 20 Q. I'm Drew Rudloff. I represent the  
15:51:25 21 Dayton Board of Education. I might refer to  
15:51:29 22 the board or to the district during the course  
15:51:33 23 of the deposition. I'll try to stick with one  
15:51:37 24 or the other, but if I slip into one or the  
15:51:41 25 other, I'm -- I'm mentioning and referring to

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15:51:16 1 the same organization and entity, okay?  
15:51:20 2 A. Yes.  
15:51:24 3 Q. Okay. You indicated that you're  
15:51:28 4 doing okay. You're still able to understand my  
15:51:32 5 questions and provide testimony here today?  
15:51:36 6 A. Yes, I am.  
15:51:40 7 Q. Okay. Throughout the course of  
15:51:44 8 the questioning, both in 2012 during your  
15:51:48 9 deposition then, yesterday and today, you've  
15:51:52 10 understood that you're under oath, correct?  
15:51:56 11 A. I what?  
15:52:00 12 Q. That you're under oath.  
15:52:04 13 A. Yes, um-hum.  
15:52:08 14 Q. Okay. And that oath is just as  
15:52:12 15 binding as if you're testifying before a judge  
15:52:16 16 and jury, correct?  
15:52:20 17 A. Correct.  
15:52:24 18 Q. Okay. Can you provide me with  
15:52:28 19 your current mailing address?  
15:52:32 20 A. Probably 7561 Walmac right now.  
15:52:36 21 Q. Okay. And, I apologize, remind  
15:52:40 22 again what address that is?  
15:52:44 23 A. Donna Moeller's.  
15:52:48 24 Q. Okay. Understood. If that  
15:52:52 25 address -- if that mailing address changes at

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15:52:11 1 any point in the future, can you let me know  
15:52:15 2 that? I can provide you with my contact  
15:52:19 3 information, okay?  
15:52:23 4 A. Sure.  
15:52:27 5 Q. Okay. You've never attended  
15:52:31 6 school at any school in the Dayton Public  
15:52:35 7 School System, correct?  
15:52:39 8 A. I did.  
15:52:43 9 Q. Okay. And where did you -- where  
15:52:47 10 did you attend?  
15:52:51 11 A. Dayton night school, I think 1970.  
15:52:55 12 Q. Okay. Did any member of your  
15:52:59 13 family attend school in the Dayton Public  
15:53:03 14 School System?  
15:53:07 15 A. My father and my mother.  
15:53:11 16 Q. Okay.  
15:53:15 17 A. And then my brother.  
15:53:19 18 Q. Okay. Which brother?  
15:53:23 19 A. John.  
15:53:27 20 Q. All of them graduate from the  
15:53:31 21 Dayton Public School System?  
15:53:35 22 A. I think just John.  
15:53:39 23 Q. Okay. I -- you had indicated  
15:53:43 24 yesterday and today that there were some ill  
15:53:47 25 feelings towards the University of Dayton.

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18:53:09 1 No ill feelings in any regard with  
18:53:12 2 respect to the Dayton Public School System,  
18:53:14 3 correct?

18:53:14 4 A. No.

18:53:15 5 Q. Okay. Yesterday you had indicated  
18:53:19 6 the Dayton Public Schools had delivered --  
18:53:22 7 excuse me -- strike that.

18:53:24 8 You had indicated that Dayton  
18:53:24 9 Public Schools had certain materials  
18:53:27 10 transported to the site, correct?

18:53:29 11 A. Correct.

18:53:30 12 Q. Okay. And that included  
18:53:33 13 furniture, which I believe there were some  
18:53:35 14 doors that you described yesterday?

18:53:37 15 A. Yes.

18:53:39 16 Q. You had also indicated in your  
18:53:41 17 2012 deposition wooden cabinets as well as  
18:53:43 18 desks, correct?

18:53:45 19 A. Correct.

18:53:48 20 Q. Okay. Any other materials that  
18:53:48 21 you would lump in that furniture category that  
18:53:51 22 you believe Dayton Public Schools transported  
18:53:53 23 to the site?

18:53:54 24 A. No.

18:53:54 25 Q. You had also talked about books,

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18:53:56 1 wood pallets, wood benches and paper debris.

18:54:02 2 Aside from those things, are there any other  
18:54:04 3 materials that you claim Dayton Public Schools  
18:54:06 4 had transported to the site at any time?

18:54:08 5 A. No.

18:54:09 6 Q. Okay. With respect to the paper  
18:54:11 7 debris, can you tell me just briefly what you  
18:54:14 8 meant by that?

18:54:17 9 A. Like before I mentioned it was  
18:54:18 10 trash you'd get out of a office or, you know, a  
18:54:23 11 bathroom. It was in a few bags.

18:54:26 12 Q. Okay. Can you describe for me in  
18:54:30 13 any greater detail what you meant by paper  
18:54:32 14 debris when you said that yesterday?

18:54:34 15 A. Toilet paper, you know, the end of  
18:54:38 16 a toilet -- the cardboard part of a toilet  
18:54:40 17 paper --

18:54:41 18 Q. The interior roll?

18:54:43 19 A. Lots of brown hand towel things  
18:54:49 20 that you -- that's all I can remember at this  
18:55:00 21 moment.

18:55:00 22 Q. And so you've told me the sum  
18:55:01 23 total of all the materials that you believe  
18:55:05 24 Dayton Public Schools transported to the site,  
18:55:08 25 correct?

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18:55:06 1 A. Correct.

18:55:06 2 Q. Okay. Is there any way that you  
18:55:09 3 can quantify how -- how many of each of those  
18:55:16 4 things were transported to the site?

18:55:18 5 A. No.

18:55:19 6 Q. Okay. Am I understanding based on  
18:55:25 7 your testimony yesterday, that you can't tell  
18:55:27 8 me how those materials were transported to the  
18:55:31 9 site, correct?

18:55:31 10 A. Correct.

18:55:32 11 Q. What's the basis for your belief  
18:55:39 12 that those materials are attributable to Dayton  
18:55:39 13 Public Schools?

18:55:47 14 A. Well, like I stated yesterday,  
18:55:51 15 like the school desks that we had taken home,  
18:55:58 16 my cousins and myself, would have Dayton School  
18:56:03 17 Board or something on a label on one of the  
18:56:07 18 legs or on the wooden desk itself.

18:56:10 19 Q. Okay. How many desks were taken  
18:56:14 20 home?

18:56:14 21 A. Maybe half a dozen, dozen.

18:56:20 22 Q. You sound unsure about that.

18:56:24 23 A. Yes.

18:56:24 24 Q. Okay. You're unsure as to how  
18:56:26 25 many desks were taken from the property,

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18:56:28 1 correct?

18:56:28 2 A. Am I unsure?

18:56:31 3 Q. Yes.

18:56:31 4 A. Yes.

18:56:32 5 Q. Okay. Were any of the other  
18:56:38 6 materials that you -- that you've listed for me  
18:56:39 7 that we spoke about a moment ago taken from the  
18:56:42 8 site?

18:56:55 9 A. No.

18:56:58 10 Q. Okay. Did any of the other  
18:57:00 11 materials that we've talked about bear a  
18:57:03 12 similar stamp to what you just described or  
18:57:07 13 have any other indication whatsoever that they  
18:57:09 14 were from Dayton Public Schools?

18:57:10 15 A. I think inside some of the books  
18:57:16 16 might have had a stamp in ink with some dates  
18:57:18 17 on it.

18:57:20 18 Q. They may have had a stamp or they  
18:57:26 19 had a stamp? It seemed like you were, again,  
18:57:28 20 unsure about that.

18:57:30 21 A. I'm pretty sure, so, yes. I'm  
18:57:34 22 thinking. Yes would be my comment. Sorry guys  
18:57:37 23 down there.

18:57:37 24 Q. Okay. And again, you can't  
18:57:39 25 quantify the number of books for me that were

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18:57:41 1 on site?

18:57:42 2 A. No.

18:57:42 3 Q. Okay. Any of the other materials

18:57:53 4 that you've listed for me that bore a similar

18:57:55 5 stamp or had any other indication whatsoever

18:57:58 6 that those materials were attributable to

18:58:01 7 Dayton Public Schools?

18:58:02 8 A. No.

18:58:02 9 Q. You had also indicated that no

18:58:09 10 other school district had contributed to waste

18:58:12 11 at the site. What's the basis for that

18:58:16 12 statement?

18:58:19 13 A. Because I can't remember seeing

18:58:24 14 any type of label, stamp or anything that would

18:58:27 15 indicate otherwise.

18:58:29 16 Q. Okay. But it's possible that

18:58:30 17 other districts could have contributed, you

18:58:33 18 just can't remember?

18:58:34 19 A. Yes.

18:58:39 20 Q. Did you ever see any receipts,

18:58:50 21 documents, anything at all, other than what we

18:58:55 22 already discussed -- well, strike that. I'm

18:58:58 23 sorry.

18:58:59 24 Have you ever seen any receipts or

18:59:02 25 other documents indicating whatsoever -- in any

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18:59:05 1 way whatsoever that Dayton Public Schools had

18:59:08 2 transported waste to the site?

18:59:10 3 A. No.

18:59:10 4 Q. And the sole basis for your belief

18:59:14 5 that Dayton Public Schools transported waste to

18:59:20 6 this site were the stamps that you had

18:59:23 7 indicated on the desks and the stamps included

18:59:32 8 in the books, correct?

18:59:39 9 A. Correct.

18:59:39 10 Q. Did you personally observe the

18:59:44 11 delivery of any of those materials that we had

18:59:47 12 listed earlier?

18:59:49 13 A. No.

18:59:52 14 Q. You had indicated yesterday that

18:59:56 15 the majority of the materials that you

18:00:00 16 attributed to Dayton Public Schools were

18:00:00 17 incinerated?

18:00:04 18 A. I don't remember that statement.

18:00:04 19 Q. Okay. But was that, in fact,

18:00:09 20 true?

18:00:11 21 A. If I made the statement, yes.

18:00:14 22 Q. Okay. Well --

18:00:16 23 A. But I think I referred to the

18:00:18 24 doors where I had to take the hinges off, but

18:00:21 25 the desks of -- being of steel nature, would

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18:00:25 1 not have been a burnable product.

18:00:31 2 Q. Okay. Were there any desks that

18:00:33 3 remained at the site?

18:00:37 4 A. No.

18:00:40 5 Q. So all of the desks that were

18:00:42 6 taken to the site were removed by either you or

18:00:44 7 your relatives?

18:00:46 8 A. Or Franklin Iron and Metal.

18:00:54 9 Q. Okay. Do you know if any of the

18:00:55 10 books remained at the site?

18:01:00 11 A. Yes.

18:01:01 12 Q. Okay. How do you know that?

18:01:06 13 A. Because if they were left at the

18:01:10 14 dump, any type of that -- books and stuff was

18:01:13 15 taken to the third pier where it would be

18:01:16 16 buried.

18:01:46 17 Q. You never observed any of the

18:01:47 18 deliveries of materials that you attributed to

18:01:50 19 Dayton Public Schools?

18:01:52 20 A. No.

18:01:53 21 MR. ROMINE: Asked and answered.

18:01:52 22 BY MR. RUDLOFF:

18:02:00 23 Q. You had indicated yesterday the

18:02:02 24 timing and sequence of when deliveries of

18:02:04 25 materials that you attribute to Dayton Public

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18:02:06 1 Schools occurred, and you had said that those

18:02:09 2 had occurred early on, which I took to mean in

18:02:12 3 the 1960s, am I correct in that -- in that

18:02:17 4 understanding?

18:02:18 5 A. Yes.

18:02:19 6 Q. Okay. That's -- can you give me a

18:02:23 7 time frame as to when you first observed

18:02:25 8 materials on site that you attributed to Dayton

18:02:29 9 Public Schools?

18:02:29 10 A. '61 maybe.

18:02:35 11 Q. Okay. Can you give me a date when

18:02:37 12 you last observed materials on site that you

18:02:40 13 attributed to Dayton Public Schools?

18:02:45 14 A. The same year.

18:02:46 15 Q. Also '61?

18:02:48 16 A. Yeah.

18:02:48 17 Q. Okay. You said that there were --

18:02:57 18 I -- I believe deliveries twice in the summer

18:02:59 19 yesterday when we -- when we spoke.

18:03:03 20 Is that your recollection that the

18:03:06 21 delivery of materials at Dayton Public -- or,

18:03:09 22 excuse me -- that the delivery of materials to

18:03:11 23 the site occurred in the summer months of 1961?

18:03:19 24 A. I don't remember, but I -- I

18:03:24 25 thought I said -- right now as I'm sitting

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16:03:24 1 here, I thought I said I didn't experience  
 16:03:28 2 deliveries, but I'm not -- you know --  
 16:03:31 3 Q. That's what you told me, but you  
 16:03:32 4 said yesterday that delivery occurred in the  
 16:03:34 5 summer months, and that's why I'm -- I want to  
 16:03:37 6 make certain I understand.

16:03:38 7 A. Okay.

16:03:38 8 Q. You don't know when materials,  
 16:03:40 9 that you attributed to Dayton Public Schools,  
 16:03:43 10 were delivered at this site, correct?

16:03:45 11 A. No. Correct.

16:03:45 12 Q. Dayton Public Schools didn't have  
 16:03:52 13 any kind of charge account with the dump?

16:03:54 14 A. Not to my knowledge.

16:03:54 15 Q. Okay. Are you aware of any  
 16:03:59 16 arrangements between Alcine or Kenneth or  
 16:04:04 17 anyone else associated with the dump and anyone  
 16:04:08 18 at Dayton Public Schools regarding delivery of  
 16:04:09 19 materials to the site?

16:04:10 20 A. No.

16:04:10 21 Q. Okay. Have you ever spoken with  
 16:04:23 22 anyone at Dayton Public Schools -- excuse me.

16:04:28 23 Have you ever spoken with any  
 16:04:30 24 representative of Dayton Public Schools  
 16:04:31 25 regarding the transfer of materials to the

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16:04:34 1 site?

16:04:34 2 A. No.

16:04:34 3 Q. Okay. No delivery driver, no  
 16:04:34 4 anything of that nature?

16:04:37 5 A. No.

16:04:40 6 Q. It's my impression that you didn't  
 16:04:48 7 believe Dayton Public Schools was a great  
 16:04:50 8 contributor to this site, correct?

16:04:51 9 A. Correct.

16:04:52 10 Q. Okay. And I'm correct in that  
 16:04:55 11 impression?

16:04:55 12 A. Correct.

16:04:56 13 Q. Okay. Regarding your -- your  
 16:05:17 14 felony offense involving marijuana, how much  
 16:05:20 15 marijuana was involved in that?

16:05:33 16 A. Probably -- I don't know grams  
 16:05:38 17 or -- I wasn't interested, because I didn't  
 16:05:39 18 like marijuana, it was probably about -- about  
 16:05:42 19 the size of a cigarette pack, something like  
 16:05:44 20 that.

16:05:45 21 Q. Okay. You can't tell me weight  
 16:05:46 22 or -- as we're sitting here today, correct?

16:05:52 23 A. Correct.

16:05:52 24 Q. You understand that the plaintiffs  
 16:05:54 25 have filed a lawsuit against the defendants

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16:05:58 1 represented in this room and on the telephone.  
 16:05:58 2 correct?

16:05:58 3 A. Correct.

16:06:01 4 Q. You understand a lawsuit's been  
 16:06:03 5 filed, and I guess my question is, do you care  
 16:06:04 6 who wins the lawsuit?

16:06:05 7 A. Correct. Pardon me?

16:06:05 8 Q. Do you care who wins the lawsuit?

16:06:11 9 A. No.

16:06:14 10 MR. RUDLOFF: I think those are all  
 16:06:17 11 the questions I have for you. Thank you, sir.

16:06:17 12 THE WITNESS: Thank you.

16:06:17 13 (Thereupon, the court reporter  
 16:06:19 14 interrupted the proceedings.)

16:06:46 15 (Pause in proceedings.)

16:06:46 16 CONTINUED CROSS-EXAMINATION

16:06:46 17 BY MR. HAUGHEY:

16:16:01 18 Q. Okay. Mr. Grillot, my name is  
 16:16:04 19 Steve Haughey. Yesterday we talked for a  
 16:16:09 20 while, but I was not able to complete my  
 16:16:11 21 questions because of the timing and other folks  
 16:16:15 22 who could not be here today wanting to go  
 16:16:18 23 forward and be done yesterday, so I agreed to  
 16:16:20 24 finish my questions this afternoon, but do you  
 16:16:24 25 remember talking with me yesterday?

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16:16:25 1 A. Yes.

16:16:26 2 Q. Yeah. And, in fact, we talked  
 16:16:27 3 about growing up in -- in Dayton?

16:16:29 4 A. Yes.

16:16:29 5 Q. Yeah, that was fun. Thank you.  
 16:16:32 6 Can you -- I want you to help me fill in some  
 16:16:36 7 dates, to the best of your knowledge, about  
 16:16:38 8 some of the other landfills in the Dayton area.

16:16:42 9 Now, the only ground rule that I  
 16:16:45 10 have for this is that when I say landfill, I  
 16:16:49 11 don't just mean a -- you know, a really  
 16:16:51 12 significant, all new, fancy landfill. I mean  
 16:16:54 13 any dumpsite, anyplace where dump -- where  
 16:16:57 14 waste could be dumped, okay?

16:16:58 15 A. (Witness nodding head up and  
 16:16:58 16 down.)

16:16:59 17 Q. So just keep that in mind. In the  
 16:17:02 18 1960s and in the -- and into the 1970s, what  
 16:17:08 19 other landfills or dumpsites were available in  
 16:17:11 20 the general Dayton area that could be used,  
 16:17:14 21 other than this site?

16:17:16 22 MR. ROMINE: I object on the grounds  
 16:17:17 23 of relevance and that it violates Judge Rice's  
 16:17:18 24 order limiting the scope of this deposition  
 16:17:20 25 testimony.

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16:17:33 1 THE WITNESS: How many?

16:17:33 2 BY MR. HAUGHEY:

16:17:34 3 Q. No, give me the names of all the

16:17:34 4 other dumpsites around the area that were open.

16:17:38 5 Let's start with the '60s where someone could

16:17:33 6 take waste other than coming here.

16:17:35 7 MR. ROMINE: Same objection.

16:17:36 8 THE WITNESS: Is it -- other than

16:17:36 9 what we talked about on these here?

16:17:36 10 BY MR. HAUGHEY:

16:17:38 11 Q. Any of them, yeah. I mean, we can

16:17:40 12 start with those. Was -- Powell Road was open,

16:17:43 13 wasn't it, during the '60s?

16:17:45 14 MR. ROMINE: Same -- same objection.

16:17:45 15 THE WITNESS: No.

16:17:46 16 BY MR. HAUGHEY:

16:17:47 17 Q. Powell Road -- Powell Road

16:17:47 18 Landfill was not open --

16:17:47 19 A. There -- there --

16:17:47 20 (Thereupon, the court reporter

16:17:47 21 interrupted the proceedings.)

16:17:47 22 BY MR. HAUGHEY:

16:17:53 23 Q. Yeah, that's okay. Powell Road

16:17:54 24 Landfill was open at some point in the 1960s.

16:17:59 25 was it not?

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16:17:59 1 MR. ROMINE: Same objection.

16:17:59 2 THE WITNESS: Correct.

16:17:59 3 BY MR. HAUGHEY:

16:18:00 4 Q. Right, it was. Okay. So that's a

16:18:01 5 yes. Okay. Do you remember the name --

16:18:04 6 talking with me about the one called

16:18:09 7 Valleycrest?

16:18:11 8 MR. ROMINE: Same objection.

16:18:12 9 THE WITNESS: Yes.

16:18:12 10 BY MR. HAUGHEY:

16:18:23 11 Q. Do you remember talking --

16:18:23 12 A. Yes.

16:18:24 13 Q. Okay. Do you know if it was open

16:18:25 14 in the '60s?

16:18:27 15 MR. ROMINE: Same objection.

16:18:29 16 THE WITNESS: It was not.

16:18:29 17 BY MR. HAUGHEY:

16:18:29 18 Q. It was not. Okay. Do you know

16:18:32 19 when it opened?

16:18:34 20 MR. ROMINE: Same objection.

16:18:36 21 THE WITNESS: In the '70s.

16:18:37 22 BY MR. HAUGHEY:

16:18:37 23 Q. Okay. So that one would be the

16:18:39 24 '70s. How do you know it was open in the '70s

16:18:39 25 and not in the '60s?

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16:18:33 1 MR. ROMINE: Same objection.

16:18:35 2 THE WITNESS: Of my interest, because

16:18:37 3 they were incinerators, like the two that were

16:18:40 4 built at our landfill, that one and then the one

16:18:46 5 on Pinn -- Pinnacle Road, which would have been

16:18:51 6 South Sanitary Landfill.

16:18:51 7 BY MR. HAUGHEY:

16:18:51 8 Q. Okay. What is it about the

16:18:53 9 construction of the incinerator at the South

16:18:59 10 Dayton Dump site that makes you remember when

16:18:59 11 the Valleycrest site opened?

16:19:04 12 A. Because I would drive by there and

16:19:07 13 I worked around that area. That was a way to

16:19:09 14 go home, so I was watching it being built.

16:19:09 15 Q. Okay. So your reason for your

16:19:09 16 recollection is that you remember seeing the

16:19:09 17 Valleycrest Landfill being constructed in the

16:19:09 18 '70s?

16:19:09 19 A. Yes, sir.

16:19:09 20 Q. Okay. Thank you. All right. So

16:19:09 21 at least in the '70s, it was an option for

16:19:09 22 somebody, correct?

16:19:09 23 A. Right.

16:19:09 24 Q. Okay. All right. Now, you

16:19:09 25 mentioned the South Sanitary Landfill on

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16:19:03 1 Pinnacle Road?

16:19:04 2 MR. ROMINE: Same objection.

16:19:05 3 THE WITNESS: Yeah.

16:19:06 4 MR. HAUGHEY: David, I'm going to

16:19:07 5 talk for maybe ten, 15 minutes all about these

16:19:09 6 landfills to fill in the dates. I can tell you

16:19:09 7 when I'm going to stop and move on to another

16:19:09 8 topic if you just want to take a continuing

16:19:09 9 objection, and then we'll -- and that way you

16:20:00 10 don't have to keep repeating yourself.

16:20:00 11 MR. ROMINE: That's fine.

16:20:02 12 MR. HAUGHEY: Okay. Let's do that.

16:20:03 13 BY MR. HAUGHEY:

16:20:03 14 Q. All right. Pinnacle Road

16:20:04 15 Landfill, was it open in the '60s?

16:20:09 16 A. No, I thought I elaborated. The

16:20:12 17 north? I'm --

16:20:12 18 Q. No, the south. The South Sanitary

16:20:14 19 Landfill, the one on Pinnacle Road.

16:20:16 20 A. Well, we'll have to go back to

16:20:17 21 Valleycrest because I did not see that one

16:20:20 22 built. I'm -- I was con -- confusing the two

16:20:24 23 were together, and we were talking about the

16:20:26 24 south one, which would be on Pinnacle Road, so

16:20:30 25 I'm sorry about that.

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16:20:30 1 Q. Right. Right. That's okay.  
 16:20:31 2 Yeah, the Valleycrest Landfill was called the  
 16:20:33 3 North Sanitary Landfill, correct?  
 16:20:34 4 A. Correct.  
 16:20:35 5 Q. Right. Okay. So does that change  
 16:20:38 6 your recollection of when the Valleycrest  
 16:20:42 7 Landfill was constructed?  
 16:20:43 8 A. No.  
 16:20:44 9 Q. Okay. So you're saying you drove  
 16:20:46 10 by it and the North Sanitary Landfill called  
 16:20:50 11 Valleycrest in the '70s and watched it being  
 16:20:54 12 built, correct?  
 16:20:57 13 A. I'm confused.  
 16:20:58 14 Q. Okay. You know what? I'll tell  
 16:21:01 15 you, why don't we agree on another ground rule.  
 16:21:03 16 If you don't remember, don't make it up, okay?  
 16:21:06 17 A. No --  
 16:21:08 18 Q. Just say I don't remember.  
 16:21:07 19 A. No, I'm confused with -- I was  
 16:21:21 20 told they were both built at the same time. It  
 16:21:24 21 was like a sister city, and the one that I saw  
 16:21:28 22 being built was the one that I drove by every  
 16:21:31 23 day because I was on my way home, and that  
 16:21:37 24 would have been the one on Pinnacle Road.  
 16:21:29 25 Q. The South Sanitary Landfill?

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16:21:26 1 A. Correct.  
 16:21:27 2 Q. Okay. And so then your  
 16:21:29 3 understanding is both the North and the South  
 16:21:33 4 Sanitary Landfills, one on Valleycrest, one on  
 16:21:36 5 Pinnacle Road, were constructed sometime in the  
 16:21:37 6 '70s, correct?  
 16:21:37 7 A. Correct.  
 16:21:38 8 Q. Okay. All right. All right. How  
 16:21:42 9 about the Vance Road Landfill, was it open at  
 16:21:49 10 all during the 1960s?  
 16:21:50 11 A. Yes.  
 16:21:50 12 Q. Okay. Was it open into the '70s?  
 16:21:54 13 A. Yes.  
 16:21:55 14 Q. Was it open into the '80s?  
 16:21:58 15 A. I don't know.  
 16:21:59 16 Q. Okay. How about Cardington Road,  
 16:22:10 17 sometimes called Dorothy Lane Dump?  
 16:22:13 18 A. Yes, that was -- do you want the  
 16:22:19 19 date time or do you want to know --  
 16:22:21 20 Q. Was the Cardington Road Landfill  
 16:22:24 21 also known as the South Dayton -- or, I'm  
 16:22:26 22 sorry -- also known as Dorothy Lane Dump open  
 16:22:29 23 in the '60s?  
 16:22:38 24 A. Yes.  
 16:22:34 25 Q. Was it also open in the '70s?

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16:22:38 1 A. Yes.  
 16:22:38 2 Q. Okay. Was it open in the '80s?  
 16:22:41 3 A. No.  
 16:22:43 4 Q. Okay. Okay. How about the -- the  
 16:22:48 5 one on the sheet called Espe, Espe Dump? Do  
 16:22:54 6 you have any knowledge of --  
 16:22:54 7 A. No.  
 16:22:56 8 Q. Okay. You have no knowledge of  
 16:22:57 9 when that would have ever been open?  
 16:22:59 10 A. No, I didn't know it existed.  
 16:23:01 11 Q. Okay. All right. Okay. Was the  
 16:23:05 12 Powell Road Landfill continued to be open in  
 16:23:07 13 the '70s?  
 16:23:09 14 A. Yes.  
 16:23:09 15 Q. Okay. How about the '80s?  
 16:23:12 16 A. I don't know.  
 16:23:16 17 Q. Okay. All right. Now, remember  
 16:23:20 18 the South and North Dayton Incinerators?  
 16:23:23 19 A. Um-hum.  
 16:23:24 20 Q. Okay. Let's start with the South  
 16:23:28 21 Dayton Incinerator. What's your earliest  
 16:23:29 22 recollection of when it was open to take trash?  
 16:23:35 23 A. The early '60s I think I spoke of.  
 16:23:38 24 I mean, '70s.  
 16:23:39 25 Q. I'm talking about the South Dayton

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16:23:42 1 Incinerator, the one that was located right  
 16:23:44 2 next to I-75 --  
 16:23:48 3 A. That's the one I'm speaking --  
 16:23:48 4 Q. -- that burned -- yeah.  
 16:23:49 5 A. That's the one --  
 16:23:49 6 Q. Yeah.  
 16:23:50 7 A. The south one on Pinnacle.  
 16:23:51 8 Q. Yeah. Okay?  
 16:23:51 9 A. I think it opened up '74, '75.  
 16:23:58 10 Q. Okay. How about the North Dayton  
 16:23:59 11 Incinerator?  
 16:24:04 12 A. I can only assume it was finished  
 16:24:06 13 the same time that Pinnacle was.  
 16:24:09 14 Q. Okay. What about Blaylock, didn't  
 16:24:14 15 Blaylock have a dump? Didn't I remember you  
 16:24:16 16 saying that earlier today?  
 16:24:17 17 A. That didn't come to my mind till  
 16:24:19 18 today, and I do remember it quite well now.  
 16:24:21 19 Q. Was it open in the '60s?  
 16:24:23 20 A. Yes.  
 16:24:23 21 Q. Where was it located?  
 16:24:25 22 A. I mentioned -- I think the name of  
 16:24:30 23 that road at that time was -- it turned -- it  
 16:24:40 24 turned into -- my mind just went blank.  
 16:24:43 25 Q. That's okay. But you remember it

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16:24:44 1 was open in the '60s?

16:24:45 2 A. Yes.

16:24:45 3 Q. Was it on -- generally on the

16:24:48 4 north side of Dayton? South side?

16:24:48 5 A. South side.

16:24:48 6 Q. East? So on the South. So it was

16:24:49 7 another option on the south --

16:24:48 8 A. South -- South Dixie.

16:24:53 9 Q. It was on South Dixie?

16:24:55 10 A. Yeah.

16:24:55 11 Q. Okay. So it was a south side

16:24:56 12 landfill?

16:24:56 13 A. Yeah.

16:24:57 14 Q. Okay. Was it open into the '70s?

16:25:08 15 A. I don't believe so.

16:25:10 16 Q. Okay. Were there any other dumps

16:25:19 17 beyond those I've mentioned that you remember

16:25:22 18 that were also open in the '60s anywhere around

16:25:28 19 Dayton?

16:25:33 20 A. There was dumping going on where

16:25:39 21 UD Arena sat.

16:25:40 22 Q. Okay. Who owned that site at that

16:25:44 23 time before UD built the arena?

16:25:44 24 A. Well, it kind of changed hands.

16:25:52 25 Dad -- Dad and Horace Boesch owned it before

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16:25:54 1 donating it to UD.

16:25:59 2 Q. Did your dad and Horace own it at

16:26:06 3 the time that certain waste was being put into

16:26:08 4 it before it was donated to the University of

16:26:08 5 Dayton?

16:26:11 6 A. It was a very -- the Miami

16:26:17 7 Conservative owned it, and then when the deal

16:26:19 8 was made for the property to be turned over to

16:26:22 9 UD, they kind of traded.

16:26:26 10 Dad and Horace received land along

16:26:29 11 the river to get topsoil off of it from the

16:26:34 12 Miami Conservative thing, and then in turn, UD

16:26:41 13 land for the arena was donated -- how did that

16:26:48 14 go?

16:26:47 15 Dad had a -- no, Miami

16:26:55 16 Conservative, Dad had purchased along the river

16:26:54 17 years ago, and then he switched it with -- so

16:26:57 18 it could be part of the river, Miami

16:27:00 19 Conservative, traded it for where the arena is,

16:27:04 20 and so Horace -- Horace Boesch, Jr., wrote up

16:27:09 21 the contract for that, if that makes any sense.

16:27:12 22 Q. Okay. When you say Miami --

16:27:15 23 MR. EDDY: If I could interrupt for a

16:27:17 24 second, Mr. Grillot. Were you saying conservative

16:27:18 25 or conservation?

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16:27:19 1 MR. HAUGHEY: I'm correcting that.

16:27:20 2 I'll get that.

16:27:20 3 MR. EDDY: All right.

16:27:20 4 MR. HAUGHEY: Thank you.

16:27:22 5 BY MR. HAUGHEY:

16:27:22 6 Q. You're referring to the Miami

16:27:26 7 Conservancy District, aren't you?

16:27:26 8 A. Yes. Yes.

16:27:26 9 Q. Yeah. Okay. All right.

16:27:28 10 MR. EDDY: Thank you.

16:27:28 11 BY MR. HAUGHEY:

16:27:28 12 Q. Thank you. What I'm trying to

16:27:29 13 understand is did your dad and Horace own the

16:27:36 14 land that at one time became UD Arena and did

16:27:39 15 they own it at a time when they also used it

16:27:43 16 for waste disposal?

16:27:43 17 A. No.

16:27:46 18 Q. Okay. Did they buy it after waste

16:27:50 19 disposal had already stopped?

16:27:52 20 A. The site had not been finished as

16:27:54 21 a landfill, so where the parking lot was, it

16:27:59 22 was still a big crater. So there was two

16:28:03 23 different properties at that location, but it

16:28:05 24 had ceased when it was purchased or traded.

16:28:09 25 Q. Okay. So if I remember your --

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16:28:12 1 your previous testimony correctly, what you're

16:28:14 2 saying is that that was another alternative

16:28:16 3 dumpsite for a period of time before it was

16:28:19 4 closed and then sold to or given to Dayton?

16:28:21 5 A. Correct.

16:28:21 6 Q. Okay. Did it have a name when it

16:28:24 7 was a dumpsite?

16:28:27 8 A. Not to my knowledge, no.

16:28:28 9 Q. Okay. All right. Did you mention

16:28:31 10 something yesterday about Shadytown?

16:28:35 11 A. That was way in -- like in the

16:28:39 12 '20s, '30s. That was part -- that was the main

16:28:42 13 dump, I guess, for Dayton and --

16:28:46 14 Q. Okay. Are we talking about the

16:28:47 15 same site then? Was this site -- this site was

16:28:49 16 at one time called the Shady dumpsite?

16:28:51 17 A. Right.

16:28:52 18 Q. Okay. So that's the name. Okay.

16:28:53 19 And I -- if I'm correct, you said it was open

16:28:58 20 in the '60s as well, correct, for dumping?

16:28:59 21 A. No, I think it was opened, I just

16:29:01 22 mentioned, way before the '20s, I think.

16:29:05 23 Q. Okay. And when did -- to the best

16:29:07 24 of your recollection, did the Shady dumpsite

16:29:13 25 that is now UD Arena stop taking waste and

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16:29:14 1 close?

16:29:14 2 A. Well, the Shadytown was more on

16:29:25 3 the Welcome Stadium area, so where the arena

16:29:31 4 was I would not -- or where we're talking about

16:29:33 5 being dumped in the '70s and '80s would be at

16:29:37 6 two different lo -- or be the same area, but

16:29:40 7 would be other property that had to be either

16:29:44 8 traded or sold.

16:29:45 9 Q. Okay. So if I'm understanding

16:29:49 10 your -- your testimony correctly, what you're

16:29:50 11 saying is there were actually two different

16:29:53 12 parcels around the UD Arena that at one time or

16:30:00 13 another were used for waste disposal, correct,

16:30:03 14 or at least multiple parcels?

16:30:05 15 A. Right.

16:30:07 16 Q. Okay. All right. And depending

16:30:07 17 on the parcel, one or more may have been open

16:30:11 18 all the way into the '20s, and others only in

16:30:13 19 the '70s and into the '80s?

16:30:15 20 A. Yes.

16:30:18 21 Q. Okay. All right. So as -- as the

16:30:19 22 crow flies, those parcels are only a couple

16:30:33 23 blocks away from the University of Dayton,

16:30:35 24 correct?

16:30:35 25 A. Correct.

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16:30:26 1 Q. Do you know who the haulers were

16:30:32 2 who hauled waste to those particular sites

16:30:37 3 while they were taking waste?

16:30:39 4 A. No.

16:30:39 5 Q. And do you know if people were

16:30:41 6 allowed to come and just dump on their own or

16:30:44 7 whether they had to use a hauler?

16:30:46 8 A. I don't know that.

16:30:47 9 Q. Okay. Are there any other

16:30:51 10 dumpsites, Mr. Grillo, that you remember being

16:30:57 11 open in and around the Dayton area in the '60s,

16:31:00 12 other than those we've talked about?

16:31:03 13 A. Yes, one more.

16:31:03 14 Q. Okay. And what was that?

16:31:05 15 A. I don't know the name of it, but

16:31:06 16 it was on either Vance or West River Road.

16:31:10 17 Q. Okay. Well, we talked about the

16:31:12 18 Vance Road Landfill.

16:31:13 19 A. Is it --

16:31:14 20 Q. Yeah, and you said it was already

16:31:17 21 open -- it was open from the '60s into the

16:31:20 22 '70s.

16:31:20 23 A. Okay.

16:31:21 24 Q. Yeah, you mentioned that one.

16:31:21 25 A. Okay.

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16:31:22 1 Q. Are we talking about the same one

16:31:23 2 or was there another one?

16:31:25 3 A. That's the same one.

16:31:26 4 Q. Okay. All right. Okay. All

16:31:27 5 right. Now, I believe you testified yesterday

16:31:34 6 that the only two haulers who used the South

16:31:39 7 Dayton Dump site were Container Service and

16:31:43 8 General Refuse, general haulers, correct?

16:31:46 9 A. Please, could you rephrase that?

16:31:47 10 Q. Right. Yeah. As I -- as I

16:31:49 11 remember your testimony yesterday, the two

16:31:51 12 haulers -- general haulers who used the South

16:31:55 13 Dayton Dump site were Container Services and

16:31:56 14 General Refuse.

16:31:59 15 A. Yes.

16:32:00 16 Q. Okay. All right. So -- all

16:32:01 17 right. Now, with respect to the keys, what was

16:32:08 18 Mr. Brandon's connection to the north -- or to

16:32:15 19 the Powell Road Landfill?

16:32:17 20 A. What was his --

16:32:19 21 Q. Yeah, what was his connection?

16:32:20 22 Did he have a connection to that landfill?

16:32:22 23 A. I believe if he didn't own it, he

16:32:23 24 was the CEO of it, you know.

16:32:24 25 Q. Okay. So does that then explain

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16:32:26 1 why keys would be available that would work at

16:32:27 2 both the South Dayton Dump site and at the

16:32:34 3 Powell Road site, correct?

16:32:36 4 A. Right.

16:32:36 5 Q. Okay. All right. So if you were

16:32:39 6 a hauler, Container Services or General Refuse,

16:32:44 7 and you were picking up on the north side of

16:32:45 8 Dayton, you could go into Powell Road as

16:32:49 9 opposed to drive all the way down to South

16:32:50 10 Dayton Dump, correct?

16:32:52 11 A. Other than what you were hauling.

16:32:54 12 Q. Right.

16:32:54 13 A. Yeah.

16:32:55 14 Q. Right. All right. Okay. Now, do

16:32:59 15 you know if haulers other than -- do you know

16:33:16 16 if other haulers around the Dayton area, like

16:33:23 17 IWD, Koogler, maybe Blaylock and some others,

16:33:27 18 would they have keys for landfills that they

16:33:29 19 were affiliated with?

16:33:29 20 A. No.

16:33:32 21 Q. Okay. So how would you know that?

16:33:36 22 How would you know whether Koogler had, for

16:33:37 23 example, keys to the landfills that were close

16:33:40 24 to where it did all of its hauling?

16:33:43 25 A. I would not know that.

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16:33:43 1 Q. Okay. So the answer is you don't  
 16:33:43 2 know?  
 16:33:43 3 A. No.  
 16:33:43 4 Q. Okay. All right. I mean, I'm  
 16:33:49 5 just -- I'm curious, do you -- do you know if  
 16:33:50 6 other haulers had arrangements with other  
 16:33:53 7 landfills where they were allowed to come in  
 16:33:56 8 after hours and dump when the landfills were  
 16:33:56 9 closed?  
 16:34:01 10 A. I do not.  
 16:34:01 11 Q. Okay. All right. Okay. Just  
 16:34:12 12 give me a moment here. I've got to -- I need  
 16:34:13 13 to get this all arranged here. Excuse me for a  
 16:34:14 14 moment.  
 16:34:40 15 So I believe you testified that  
 16:34:44 16 Larry Brandon had an ownership interest in  
 16:34:48 17 Container Services, is that correct?  
 16:34:52 18 A. I don't know if he had ownership,  
 16:34:54 19 but they -- this -- all three entities was at  
 16:35:02 20 the same location, and they all seemed to have  
 16:35:06 21 the same -- what word do I use -- power, you  
 16:35:15 22 know, to give people orders, so they --  
 16:35:19 23 Q. Okay. Do you know what the  
 16:35:21 24 service area was for Container Service? Do you  
 16:35:24 25 know how far away from the South Dayton Dump it

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16:35:28 1 would generally go to pick up trash and bring  
 16:35:32 2 it back to South Dayton?  
 16:35:34 3 A. Well, the General Refuge went as  
 16:35:42 4 far north as Union, Ohio.  
 16:35:44 5 Q. Okay. And if it picked up at  
 16:35:52 6 Union, which is north of Dayton, are you  
 16:35:54 7 telling me it would drive down to the South  
 16:35:56 8 Dayton Dump site rather than Powell Road, which  
 16:35:59 9 is on the north side of Dayton?  
 16:36:02 10 A. Well, when Powell Road was open,  
 16:36:05 11 that was where it went, but other than that,  
 16:36:07 12 because it was garbage, I would assume it would  
 16:36:13 13 go to Baylock -- Baylock's over -- the one on  
 16:36:14 14 South Dixie.  
 16:36:14 15 Q. Okay. What about Container  
 16:36:19 16 Service, did they pick up generally south of  
 16:36:24 17 Dayton or did they have a service area on all  
 16:36:27 18 sides of Dayton?  
 16:36:29 19 A. Pretty much all sides.  
 16:36:32 20 Q. And when you say the same thing  
 16:36:33 21 that as long as there was another landfill like  
 16:36:36 22 Powell open at the time on the north side of  
 16:36:38 23 Dayton and it was closer, they'd go there  
 16:36:40 24 first?  
 16:36:40 25 A. Depending upon what they were

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16:36:44 1 hauling.  
 16:36:44 2 Q. Right.  
 16:36:44 3 A. But most of it was skids and stuff  
 16:36:47 4 like that, so they would go to South Dayton  
 16:36:47 5 Dump.  
 16:36:50 6 Q. Okay. And the reason you would  
 16:36:51 7 bring skids to South Dayton is because you had  
 16:36:53 8 a way to recycle them and make money and so you  
 16:36:56 9 brought them all there, correct?  
 16:36:57 10 A. Most -- that, and burn them.  
 16:36:59 11 Q. You burned them?  
 16:37:00 12 A. They could burn them in the  
 16:37:02 13 incinerator -- incinerator.  
 16:37:02 14 Q. Okay. Thank you. Okay. I don't  
 16:37:12 15 know how to -- I don't want to turn -- I don't  
 16:37:14 16 want you to get emotional on me again, because  
 16:37:17 17 I need to understand more about the situation  
 16:37:19 18 with the University of Dayton, because that's  
 16:37:23 19 one of our clients.  
 16:37:25 20 Yesterday during your testimony in  
 16:37:28 21 the morning, you testified that you did not  
 16:37:31 22 remember that the University of Dayton sent any  
 16:37:34 23 waste to the site.  
 16:37:35 24 And then about 15 minutes later  
 16:37:37 25 after a break, you came in and recanted that

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16:37:41 1 testimony and said you remembered University of  
 16:37:44 2 Dayton being a customer. Do you remember that  
 16:37:46 3 sequence?  
 16:37:47 4 A. After thinking about it during  
 16:37:50 5 that break time, I remembered some -- yeah.  
 16:37:53 6 Q. Okay. And did you talk with  
 16:37:58 7 anyone during that break to help you remember  
 16:38:01 8 that you had misremembered?  
 16:38:02 9 A. No.  
 16:38:02 10 Q. Okay. Do you remember testifying  
 16:38:07 11 yesterday that you had a lack of memory because  
 16:38:12 12 you were having difficulty separating your  
 16:38:14 13 personal grudge or personal animosity involving  
 16:38:16 14 University of Dayton, do you remember that?  
 16:38:18 15 A. Yes.  
 16:38:18 16 MR. ROMINE: Objection to the word  
 16:38:18 17 grudge as vague.  
 16:38:26 18 THE WITNESS: Yes.  
 16:38:27 19 BY MR. HAUGHEY:  
 16:38:27 20 Q. Okay. Is there a building at the  
 16:38:33 21 University of Dayton that has Horace Boesch's  
 16:38:37 22 name on it?  
 16:38:38 23 A. Yes.  
 16:38:39 24 Q. Okay. Is that part of the -- the  
 16:38:45 25 ill will that you harbor for the University of

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16:38:48 1 Dayton?

16:38:48 2 A. Like I mentioned today --

16:38:51 3 Q. Yeah.

16:38:51 4 A. -- which I got real emotional

16:38:54 5 about, I thought that it would carry the name

16:38:59 6 Grillo/Boesch, because they were partners, and

16:39:04 7 so I thought Dad got -- our family got the

16:39:07 8 short end of the stick, so --

16:39:08 9 Q. Where is that building? Is it on

16:39:10 10 campus?

16:39:11 11 A. No, I -- Boesch Hall, I think, is

16:39:15 12 in the Donohoe Center. It's part of the

16:39:20 13 athletic -- where they shower and workout and

16:39:25 14 stuff like that.

16:39:25 15 Q. Okay. So it's a room or a series

16:39:28 16 of rooms at -- in the University of Dayton

16:39:28 17 Arena?

16:39:32 18 A. I believe so, yes.

16:39:32 19 Q. Okay. And is it then your

16:39:39 20 feelings about it have to do with the fact

16:39:40 21 that at the time of the donation, it was a

16:39:44 22 joint donation between your dad and Horace

16:39:44 23 Boesch?

16:39:47 24 A. His widow, yes.

16:39:48 25 Q. Right. Okay. And so your family

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16:39:52 1 being part of the donating group did not get

16:39:54 2 any credit, correct?

16:39:55 3 MR. ROMINE: Asked and answered.

16:39:56 4 THE WITNESS: Correct.

16:39:57 5 BY MR. HAUGHEY:

16:39:57 6 Q. Okay. Okay. I understand. Now,

16:40:02 7 you testified that you saw trash or waste at

16:40:11 8 the Dayton dumpsite from the University of

16:40:13 9 Dayton, do you remember that?

16:40:15 10 A. Yes.

16:40:16 11 Q. And I believe you testified that

16:40:20 12 it might have been some -- it was some desks?

16:40:24 13 A. File cabinets.

16:40:25 14 Q. File cabinets. Pretty much the

16:40:29 15 same type of waste that I believe you said came

16:40:32 16 from the Dayton School District, correct?

16:40:36 17 A. Correct.

16:40:36 18 Q. All right. How did you separate

16:40:42 19 the waste as coming from University of Dayton

16:40:46 20 or from another school or from a school

16:40:52 21 district or coming from the demolition of a

16:40:54 22 commercial building that had desks in it?

16:40:57 23 How did you -- how -- what made

16:40:59 24 you believe it was from Dayton -- University of

16:41:03 25 Dayton?

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16:41:02 1 A. Well, from the Dayton Schools --

16:41:06 2 Q. No, no, University of Dayton.

16:41:08 3 A. Oh, the university.

16:41:09 4 Q. Yeah. I'm sorry. Yeah. Give

16:41:09 5 me -- what made you think it was from the

16:41:12 6 University of Dayton versus some other source?

16:41:16 7 A. I think other than the books would

16:41:19 8 have been the only indication.

16:41:21 9 Q. Well, I want to get it clear. You

16:41:24 10 testified earlier that the Dayton School

16:41:29 11 District sent books, but you've never testified

16:41:31 12 either yesterday or in your 2012 deposition

16:41:33 13 that any books came to the site from the

16:41:36 14 University of Dayton.

16:41:37 15 A. Then I don't remember.

16:41:38 16 Q. Okay. So you really don't know

16:41:40 17 how you -- you just -- okay. That's fine. All

16:41:42 18 right. Yeah, I should shut up and move on.

16:41:47 19 Okay. Thank you.

16:41:48 20 MR. COUGHLIN: We're not allowed to

16:41:49 21 stipulate, are we?

16:41:55 22 MR. HAUGHEY: Oh, God, I walked into

16:41:56 23 that one.

16:41:57 24 MR. COUGHLIN: I withdraw that

16:42:01 25 nastily, good-natured comment.

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16:42:02 1 MR. HAUGHEY: Asked and answered.

16:42:05 2 All right. Sorry about that.

16:42:05 3 BY MR. HAUGHEY:

16:42:06 4 Q. All right. Let's talk about

16:42:09 5 Standard Register. Okay. You testified in

16:42:14 6 2012 that NCR sent trash that consisted of old

16:42:20 7 cash register parts, adding machines, paper

16:42:23 8 rolls and -- to the site, correct?

16:42:26 9 A. Correct.

16:42:26 10 Q. Okay. You also said that you

16:42:30 11 thought that other trash like that could have

16:42:37 12 been Standard Register or National Cash

16:42:39 13 Register or NCR, correct?

16:42:40 14 A. Correct.

16:42:41 15 Q. And do you remember testifying

16:42:43 16 that you really couldn't tell the difference

16:42:45 17 between the two, correct?

16:42:48 18 A. Correct.

16:42:48 19 Q. Okay. And that's still your

16:42:49 20 testimony today, correct?

16:42:50 21 A. Correct.

16:42:52 22 Q. Okay. Okay. Let's talk about

16:42:59 23 Coca-Cola. All right. Now, I believe you

16:43:04 24 testified yesterday that you liked seeing old

16:43:10 25 pop bottles and things in the landfill because

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16:43:13 1 they -- some of them you could keep for  
 16:43:14 2 souvenirs and sometimes you would look and see  
 16:43:17 3 what was under the cap. Do you remember that  
 16:43:18 4 testimony?

16:43:18 5 A. Yes.

16:43:18 6 Q. All right. Okay. Is that -- is  
 16:43:22 7 that the source of your recollection of waste  
 16:43:27 8 coming to the site from Coca-Cola, the fact  
 16:43:29 9 that you saw bottles at the site and saw some  
 16:43:36 10 of the old wooden crates at the site? Is that  
 16:43:39 11 the source of your recollection?

16:43:40 12 A. And then the syrup.

16:43:42 13 Q. And the syrup?

16:43:44 14 A. Yes.

16:43:44 15 Q. Okay. All right. Now, let's see  
 16:43:48 16 if I get this right. Okay. If I'm a  
 16:43:51 17 business -- if I'm a restaurant in Dayton or I  
 16:43:58 18 am a bar in Dayton, I would most likely serve  
 16:44:03 19 some sort of Pepsi or Coca-Cola products,  
 16:44:06 20 correct?

16:44:06 21 A. Correct.

16:44:06 22 MR. ROMINE: Objection. Objection to  
 16:44:08 23 the form.

16:44:08 24 THE WITNESS: Right.

16:44:08 25 BY MR. HAUGHEY:

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16:44:08 1 Q. Okay. So why would you think  
 16:44:13 2 that -- and at the same time, if I'm a  
 16:44:16 3 restaurant or a bar, I would buy those products  
 16:44:20 4 as well and have them available for my  
 16:44:23 5 customers, right?

16:44:23 6 MR. ROMINE: Objection to the  
 16:44:24 7 hypothetical.

16:44:24 8 MR. COUGHLIN: Excuse me. Let the  
 16:44:24 9 record reflect --

16:44:27 10 MR. HAUGHEY: Yeah. I mean, David,  
 16:44:27 11 if you touch him again, I'm going to have you  
 16:44:30 12 moved. Do you understand me? You are not his --

16:44:32 13 MR. ROMINE: What do you mean, moved?

16:44:32 14 MR. HAUGHEY: Moved away from him.

16:44:34 15 You are not his lawyer. I'm sorry. I mean, with  
 16:44:37 16 all due respect, you're not his lawyer. Don't you  
 16:44:40 17 touch him again. I mean, I mean it. Don't --  
 16:44:44 18 please don't do that because you're not his  
 16:44:46 19 lawyer, so -- this is between me and him, okay?

16:44:48 20 I mean, please agree with me or we  
 16:44:51 21 will have to escalate it to another level.

16:44:53 22 MR. ROMINE: No, no, no, I will not  
 16:44:54 23 agree to that. I was touching the witness because  
 16:44:58 24 earlier there was some request made of the witness  
 16:45:05 25 that he give me time to object, and he did that

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16:45:14 1 for a little while, and then the last five minutes  
 16:45:17 2 or so he has not been giving me that time to  
 16:45:21 3 object.

16:45:22 4 So I touched him to indicate to him  
 16:45:23 5 that he was talking before I had the chance to  
 16:45:26 6 object, and, therefore, the court reporter could  
 16:45:29 7 not take down both your question and his answer  
 16:45:33 8 and my objection simultaneously.

16:45:34 9 MR. HAUGHEY: Okay. So you -- for  
 16:45:36 10 the record, you were not touching him to prompt  
 16:45:39 11 his answer?

16:45:39 12 MR. ROMINE: I was touching him so  
 16:45:41 13 that -- my intention was touching him so that I  
 16:45:43 14 would have time to object.

16:45:46 15 MR. HAUGHEY: Okay. Then we're  
 16:45:47 16 clear, but please make your objection, don't touch  
 16:45:49 17 him. Make your objection and we'll sort it out.

16:45:51 18 BY MR. HAUGHEY:

16:45:55 19 Q. And I'll remind you, Edward,  
 16:45:57 20 please let me finish, pause for a second and  
 16:46:01 21 then let David, if he has an objection, give  
 16:46:03 22 his objection so that I don't have to be  
 16:46:05 23 worried about whether he's prompting you when  
 16:46:07 24 he touches you, okay?

16:46:07 25 A. Okay.

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16:46:07 1 Q. Okay. All right. Thank you.  
 16:46:12 2 Now -- so I believe what we were talking about  
 16:46:16 3 was that Coca-Cola and Pepsi and 7-Up would  
 16:46:20 4 sell to lots of customers in the Dayton area,  
 16:46:23 5 correct?

16:46:28 6 A. Right.

16:46:29 7 MR. ROMINE: Objection.  
 16:46:34 8 Hypothetical.

16:46:34 9 THE WITNESS: Yes.

16:46:34 10 (Thereupon, the court reporter  
 16:46:34 11 interrupted the proceedings.)

16:46:34 12 BY MR. HAUGHEY:

16:46:35 13 Q. Okay. Now, you and I grew up in  
 16:46:39 14 the Dayton area, so I remember the old wooden  
 16:46:42 15 crates being dropped off. In fact, my  
 16:46:46 16 grandfather had a bar/tavern on Xenia Avenue.  
 16:46:49 17 So, anyway.

16:46:51 18 So we -- those would come in and  
 16:46:54 19 then they would be used and then the bar or the  
 16:46:58 20 customer would have to get rid of that waste,  
 16:47:01 21 correct?

16:47:03 22 A. Correct.

16:47:03 23 Q. Okay. So the fact that you saw  
 16:47:05 24 bottles at the site that had -- that were a  
 16:47:05 25 Coca-Cola bottle or an empty -- you know,

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16:47:09 1 trays; you know, the old wooden carts or even  
16:47:12 2 some syrup that went bad at a restaurant, it  
16:47:14 3 could have come from them just as easily as it  
16:47:17 4 could have come from Coca-Cola, correct?

16:47:20 5 A. Correct.

16:47:20 6 Q. Okay. All right. Thank you. I  
16:47:29 7 believe you testified yesterday and again in  
16:47:35 8 2012, that Duriron sent waste to the South  
16:47:41 9 Dayton Dump site. Do you remember that?

16:47:42 10 A. Yes, I do.

16:47:43 11 Q. Now, I believe in your 2012  
16:47:49 12 testimony, the only waste that you testified  
16:47:51 13 coming to the site what was you called the hot  
16:47:54 14 waste, correct?

16:47:59 15 A. Yes. Yes.

16:47:59 16 Q. On the Apollo vessels, as you  
16:48:00 17 called them?

16:48:01 18 A. From -- from 2012?

16:48:01 19 Q. Yeah, from the 2012 deposition.

16:48:02 20 A. Okay. I believe that was -- yes.  
16:48:03 21 Yeah.

16:48:03 22 Q. And then I believe yesterday you  
16:48:06 23 testified about another stream called an oily  
16:48:10 24 liquid.

16:48:10 25 A. Correct.

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16:48:11 1 Q. Okay. All right. Now, how did  
16:48:18 2 you -- how did you attribute the hot waste  
16:48:22 3 coming to the site from Duriron?

16:48:28 4 A. Would you please rephrase that  
16:48:30 5 question?

16:48:30 6 Q. Yeah. What was it about the waste  
16:48:33 7 that made you attribute the hot waste as coming  
16:48:37 8 from Duriron?

16:48:39 9 A. How did I know that?

16:48:41 10 Q. Yeah. What made you say, hey,  
16:48:43 11 that's Duriron waste, the hot waste is Duriron  
16:48:44 12 waste?

16:48:44 13 A. Because on the door it said  
16:48:48 14 Duriron.

16:48:48 15 Q. Okay. I believe you also  
16:48:51 16 testified yesterday that this hot waste would  
16:48:54 17 come to the site on a regular basis?

16:48:59 18 A. Yes.

16:48:59 19 Q. Right. It was multiple times a  
16:49:01 20 week.

16:49:01 21 A. Yes.

16:49:01 22 Q. Okay. All right. Would you look  
16:49:04 23 at Defendants' Exhibit -- no, I'll tell you  
16:49:10 24 what, I'll give you a new one.

16:49:12 25 MR. HAUGHEY: Let's mark off the --

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16:49:13 1 this will be Defendants' Exhibit 5, am I correct?  
16:49:16 2 Are we up to 5 or are we up to 6?

16:49:16 3 THE WITNESS: I think it's 6.

16:49:16 4 BY MR. HAUGHEY:

16:49:16 5 Q. All right. Why don't we start  
16:49:23 6 off -- let's first look at Defendants'  
16:49:25 7 Exhibit 1, okay?

16:49:25 8 A. Okay.

16:49:26 9 Q. And that's the map, and -- and I  
16:49:29 10 believe you identified and agreed that I had  
16:49:32 11 accurately set forth on that map the location  
16:49:35 12 of Duriron marked as A off of Monument Avenue  
16:49:42 13 versus the location of the South Dayton Dump  
16:49:48 14 site, which I believe was marked as G. Do you  
16:49:49 15 remember having that discussion with me?

16:49:51 16 A. Yes.

16:49:52 17 Q. Okay. All right. So -- so that's  
16:49:54 18 what we're talking about. All right. Now, why  
16:49:57 19 don't you set Plaintiffs' Exhibit -- or  
16:50:02 20 Defendants' Exhibit 1 aside for a moment.

16:50:05 21 Okay. Did you -- did you know  
16:50:07 22 that Duriron had its own landfill?

16:50:10 23 A. No, I did not know that.

16:50:12 24 Q. Did not -- did not know. You have  
16:50:13 25 no recollection that Duriron had its own onsite

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16:50:13 1 landfill?

16:50:16 2 A. No.

16:50:16 3 MR. ROMINE: Asked and answered.

16:50:16 4 Please --

16:50:16 5 BY MR. HAUGHEY:

16:50:17 6 Q. Okay.

16:50:17 7 MR. ROMINE: Please give me time to  
16:50:19 8 object.

16:50:20 9 THE WITNESS: No.

16:50:20 10 BY MR. HAUGHEY:

16:50:20 11 Q. That's okay. If I could prove to  
16:50:24 12 you that Duriron had its own onsite landfill,  
16:50:28 13 would that change the recollection you --  
16:50:30 14 your -- would that change your testimony?

16:50:32 15 MR. ROMINE: Objection.

16:50:33 16 Hypothetical. Go ahead.

16:50:33 17 THE WITNESS: No.

16:50:34 18 BY MR. HAUGHEY:

16:50:34 19 Q. It wouldn't?

16:50:34 20 A. No.

16:50:34 21 Q. So -- okay. So, in other words,  
16:50:37 22 even if Duriron had its own onsite landfill,  
16:50:40 23 you would still testify that your memory was  
16:50:44 24 still that Duriron sent its waste down through  
16:50:50 25 Dayton to the South Dayton Dump site rather

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16:50:53 1 than going to their own site?

16:50:53 2 A. Yes.

16:50:54 3 Q. Okay. All right. I'm going to

16:50:58 4 hand you a document that I'm asking the court

16:51:00 5 reporter to mark as Defendants' Exhibit 6.

16:51:00 6 (Thereupon, Defendants' Exhibit

16:51:00 7 Number 6, Google map, was marked for purposes of

16:51:00 8 identification.)

16:51:00 9 BY MR. HAUGHEY:

16:51:32 10 Q. Okay. I'm going to represent to

16:51:34 11 you that this is a MapQuest or a Google

16:51:39 12 direction map showing the -- as site A, the

16:51:47 13 Duriron facility on Monument Avenue, and site B

16:51:50 14 as the South Dayton Dump site.

16:51:53 15 Would you look at the map and look

16:51:54 16 at the driving directions to the left and let

16:51:58 17 me know if you agree with what it represents?

16:52:02 18 A. Yes.

16:52:03 19 Q. Okay. All right. So let's talk

16:52:03 20 about that. You're talking about hot waste,

16:52:07 21 which I believe you said was so hot you had to

16:52:10 22 be careful with it because it could start

16:52:12 23 fires, correct?

16:52:12 24 A. Correct.

16:52:12 25 Q. And was it a solid hot waste or a

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16:52:18 1 liquid hot waste?

16:52:18 2 A. Solid.

16:52:20 3 Q. Solid. Okay. And I believe you

16:52:22 4 testified in 2012 that it had -- it had steam

16:52:24 5 or smoke coming off of it, correct?

16:52:27 6 A. Correct.

16:52:28 7 Q. Okay. So let's look at it. What

16:52:31 8 did Duriron do? What was its business?

16:52:34 9 A. I believe it was a steel foundry.

16:52:42 10 Q. So you're telling me that multiple

16:52:45 11 times a week Duriron wouldn't use any own

16:52:52 12 landfill on some property, but would take hot

16:52:55 13 metal waste and drive it through Dayton down

16:53:01 14 approximately six miles and dump it at this

16:53:05 15 site?

16:53:05 16 MR. ROMINE: Objection. Asked and

16:53:06 17 answered.

16:53:06 18 THE WITNESS: Yes, I do.

16:53:08 19 BY MR. HAUGHEY:

16:53:08 20 Q. Okay. Okay. Wow. Okay. And --

16:53:24 21 okay. When was Interstate 75 built?

16:53:29 22 MR. ROMINE: Objection. Relevance.

16:53:32 23 BY MR. HAUGHEY:

16:53:32 24 Q. Go ahead.

16:53:32 25 A. I think the middle of the '60s.

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16:53:36 1 Q. Okay. So if Duriron used I-75 for

16:53:40 2 this route, we're talking about almost seven

16:53:44 3 miles, correct?

16:53:45 4 A. Correct.

16:53:46 5 Q. Okay. So it's your testimony that

16:53:55 6 Duriron would send hot steaming metal waste

16:54:00 7 through downtown Dayton or on I-75 on a regular

16:54:06 8 basis to bring that hot waste and dump it at

16:54:11 9 your father's site, correct?

16:54:11 10 MR. ROMINE: Asked and answered

16:54:12 11 twice.

16:54:13 12 THE WITNESS: Correct.

16:54:13 13 BY MR. HAUGHEY:

16:54:22 14 Q. Okay. All right. All right.

16:54:25 15 Were there other foundries that sent waste to

16:54:31 16 the South Dayton Dump site for disposal?

16:54:35 17 A. Not to my recollection, no.

16:54:40 18 Q. Okay. With respect to Duriron, do

16:54:43 19 you remember ever filling out a dumping receipt

16:54:45 20 for Duriron?

16:54:48 21 A. I don't know. Don't remember.

16:54:50 22 Q. Okay. Do you remember seeing

16:54:52 23 Kenneth fill out a dumping receipt for Duriron?

16:54:55 24 A. I wouldn't know that.

16:54:56 25 Q. Okay. Based on the discussion we

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16:55:01 1 had yesterday about what constitutes an

16:55:04 2 intermittent customer or a charge customer,

16:55:06 3 wouldn't Duriron delivering this hot waste two,

16:55:10 4 three times a week have been a regular

16:55:11 5 customer?

16:55:12 6 A. Yes.

16:55:12 7 Q. And wouldn't they have been a

16:55:14 8 charge customer?

16:55:17 9 A. I would assume, yes.

16:55:18 10 Q. Okay. All right. Let's talk

16:55:25 11 about some of the other foundries that sent

16:55:28 12 waste to the site. How about -- didn't NCR

16:55:31 13 have its own foundry at one time?

16:55:35 14 A. NCR?

16:55:36 15 Q. NCR.

16:55:39 16 A. If it did, I didn't have any

16:55:39 17 knowledge of it.

16:55:43 18 Q. Okay. So you don't know if

16:55:44 19 Duriron sent any -- what type of wastes are

16:55:47 20 generated from a foundry?

16:55:53 21 A. I don't know.

16:56:05 22 Q. What did this hot solid steaming

16:56:11 23 metal look like that was coming from the

16:56:14 24 Duriron company to the site?

16:56:17 25 MR. ROMINE: Asked and answered.

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16:56:19 1 BY MR. HAUGHEY:  
 16:56:19 2 Q. I'm not asking what it looked  
 16:56:20 3 like. Go ahead, please answer. What did it  
 16:56:23 4 look like?  
 16:56:26 5 A. Separate from some other steel  
 16:56:31 6 hanging out of it, it would look like -- almost  
 16:56:44 7 like a porcelain or a marble-ish look. A lot  
 16:56:52 8 of reddish type of glaze on it.  
 16:56:55 9 Q. Okay. I believe you --  
 16:56:57 10 A. Because it was all stuck together  
 16:56:58 11 in one massive piece.  
 16:57:00 12 Q. Okay. Okay. I believe you  
 16:57:01 13 testified earlier that the Powell Road Landfill  
 16:57:08 14 was open at some point in the '60s on forward,  
 16:57:11 15 correct?  
 16:57:11 16 A. Correct.  
 16:57:12 17 Q. Okay. Now, if you look at  
 16:57:18 18 Defendants' Exhibit 1, the Powell Road Landfill  
 16:57:21 19 is a lot closer to the Duriron facility than  
 16:57:28 20 the South Dayton Dump site, correct?  
 16:57:29 21 A. Correct.  
 16:57:29 22 Q. Okay. If you look at the  
 16:57:33 23 Valleycrest Landfill on the map, which I  
 16:57:34 24 believe you called the North Sanitary Landfill,  
 16:57:37 25 that one was also located a lot closer to the

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16:57:42 1 Duriron facility than the South Dayton Dump,  
 16:57:43 2 correct?  
 16:57:46 3 A. Correct.  
 16:57:46 4 Q. Okay. If I recall your testimony  
 16:57:52 5 correctly, you said that Powell Road was open  
 16:57:55 6 in the '60s, open in the '70s, and you don't  
 16:57:58 7 know about the '80s, correct?  
 16:58:01 8 MR. ROMINE: Asked and answered.  
 9 (Thereupon, the court reporter  
 10 interrupted the proceedings.)  
 11 BY MR. HAUGHEY:  
 12 Q. Okay. And at the Valleycrest --  
 13 MR. ROMINE: Asked and answered.  
 14 (Thereupon, the court reporter  
 15 interrupted the proceedings.)  
 16:58:07 16 MR. HAUGHEY: He said correct.  
 16:58:07 17 MR. ROMINE: Give me time to object.  
 16:58:07 18 THE WITNESS: Yeah.  
 16:58:07 19 (Thereupon, the court reporter  
 16:58:07 20 interrupted the proceedings.)  
 16:58:09 21 BY MR. HAUGHEY:  
 16:58:09 22 Q. And that the Valleycrest Landfill  
 16:58:18 23 was open at least in the '70s, correct?  
 16:58:22 24 MR. ROMINE: Same objection.  
 25 BY MR. HAUGHEY:

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1 Q. Okay. Now, what logical reason --  
 2 (Thereupon, the court reporter  
 3 interrupted the proceedings.)  
 4 MR. HAUGHEY: He nodded.  
 16:58:59 5 MR. COUGHLIN: Off the record.  
 16:58:59 6 (Thereupon, an off-the-record  
 16:59:00 7 discussion was had.)  
 16:59:00 8 BY MR. HAUGHEY:  
 16:59:05 9 Q. Okay. So you can't think of any  
 16:59:07 10 logical reason why the Duriron company would  
 16:59:12 11 choose to go a much further distance away  
 16:59:14 12 through Dayton with this hot molten steaming  
 16:59:19 13 metal to get to your site as opposed to a  
 16:59:20 14 closer one, you know of no logical reason to  
 16:59:32 15 explain that, do you?  
 16:59:33 16 MR. ROMINE: Objection.  
 16:59:38 17 Hypothetical. Asked and answered three times.  
 16:59:38 18 THE WITNESS: Yes, I do.  
 16:59:38 19 BY MR. HAUGHEY:  
 16:59:38 20 Q. Okay. What logical reason would  
 16:59:38 21 Dayton -- would Duriron have to travel further  
 16:59:38 22 with this dangerous material than going to a  
 16:59:38 23 closer site?  
 16:59:37 24 A. Well, first of all, because it was  
 16:59:40 25 steaming hot, I would assume that they thought

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16:59:42 1 it would be better to cool off a period before  
 16:59:44 2 it got to the -- the site.  
 16:59:47 3 And then the South Dayton Dump was  
 16:59:53 4 the largest hole. I don't know anything about  
 16:59:55 5 the size of the lot that's on Duriron, but  
 17:00:00 6 South Dayton Dump would have been a perfect  
 17:00:02 7 place, and Powell Road would not accept  
 17:00:06 8 something like that and neither would the  
 17:00:08 9 incinerators.  
 17:00:08 10 Q. Okay. And so what you're saying  
 17:00:13 11 is that Duriron would -- you think could have  
 17:00:14 12 logically chosen to send this dangerous  
 17:00:20 13 material through Dayton for a further distance,  
 17:00:24 14 because over that longer distance, it could  
 17:00:26 15 cool down in time and then it would be okay?  
 17:00:28 16 A. Correct.  
 17:00:28 17 Q. But that's not what you testified  
 17:00:30 18 to in 2012.  
 17:00:32 19 MR. ROMINE: Objection.  
 17:00:32 20 Argumentative.  
 17:00:32 21 BY MR. HAUGHEY:  
 17:00:32 22 Q. In 2012, you said it arrived at  
 17:00:37 23 the landfill steaming hot and had to be handled  
 17:00:40 24 carefully or people would be hurt or fires  
 17:00:43 25 could start.

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17:00:43 1 MR. ROMINE: Objection.  
 17:00:48 2 Argumentative.  
 17:00:48 3 BY MR. HAUGHEY:  
 17:00:48 4 Q. Correct?  
 17:00:48 5 A. Correct.  
 17:00:48 6 Q. So when did the cooling -- so  
 17:00:48 7 apparently the distance between Duriron and the  
 17:00:52 8 South Dayton Dump site was not enough to cool  
 17:00:55 9 down and make safe this hot dangerous material?  
 17:00:58 10 MR. ROMINE: Objection.  
 17:00:58 11 Argumentative. Mischaracterizes his testimony.  
 17:01:01 12 THE WITNESS: Do you want me to say  
 17:01:03 13 what I think?  
 17:01:03 14 BY MR. HAUGHEY:  
 17:01:03 15 Q. Yeah. Sure.  
 17:01:04 16 A. I think it was a whole lot hotter  
 17:01:04 17 when it was in a cone than it -- you know, it  
 17:01:11 18 would probably shine like the sun. I don't  
 17:01:13 19 know. So I don't know how hot it was, I never  
 17:01:15 20 took the temperature of it, but when it came to  
 17:01:17 21 us, I'm sure it was a lot cooler because of the  
 17:01:20 22 ride and -- you know, through town.  
 17:01:22 23 Q. Okay. I'm going to hand you a  
 17:01:24 24 document that -- well, I guess we'll have to  
 17:01:32 25 mark it again. It was used as Deposition

17:01:35 1 Exhibit 28 in your 2012 deposition, and I'm  
 17:01:42 2 going to ask the court reporter to go ahead and  
 17:01:44 3 mark it as, I believe, Defendants' Exhibit 7?  
 17:01:47 4 A. Yeah.  
 17:01:47 5 MR. ROMINE: Correct.  
 17:01:47 6 MR. HAUGHEY: Okay. Thank you.  
 17:01:47 7 (Thereupon, Defendants' Exhibit  
 17:01:47 8 Number 7, photocopy of a color photograph of a  
 17:01:47 9 Container Service truck, was marked for purposes  
 17:01:47 10 of identification.)  
 17:02:10 11 BY MR. HAUGHEY:  
 17:02:11 12 Q. Do you remember, Edward, being  
 17:02:13 13 shown that exhibit at the time of your  
 17:02:16 14 deposition in 2012?  
 17:02:18 15 A. Yes.  
 17:02:18 16 Q. Do you remember testifying that  
 17:02:22 17 that was an example of a special truck that  
 17:02:24 18 would be used to deliver waste, this hot waste,  
 17:02:28 19 from Duriron?  
 17:02:30 20 A. Rephrase that again.  
 17:02:31 21 Q. Do you remember testifying in 2012  
 17:02:34 22 that the picture I'm showing you now was a  
 17:02:38 23 similar type of a truck to the one that you  
 17:02:42 24 believe Duriron sent its hot waste to the site  
 17:02:43 25 in?

17:02:47 1 A. Similar, yes.  
 17:02:47 2 Q. Yeah. Okay. All right. And is  
 17:02:48 3 that -- I believe there's a name on the top of  
 17:02:50 4 that calling it a lugger truck, is that  
 17:02:53 5 correct?  
 17:02:53 6 A. Lugger, yeah.  
 17:02:55 7 Q. Yeah.  
 17:02:58 8 A. Yes.  
 17:02:59 9 Q. All right. Okay. So I believe  
 17:03:08 10 you testified in 2012 that the truck you're  
 17:03:09 11 referring to for Duriron had -- was like the  
 17:03:09 12 one on the bottom of that picture with chains  
 17:03:10 13 on the sides, correct?  
 17:03:13 14 A. Correct.  
 17:03:13 15 Q. Okay. So -- and I believe you  
 17:03:14 16 testified in 2012 that this hot waste would be  
 17:03:21 17 swinging from those chains -- be suspended from  
 17:03:24 18 the chains, correct?  
 17:03:25 19 A. Correct.  
 17:03:26 20 Q. Okay. So it is your testimony  
 17:03:28 21 today that Duriron would take this dangerous  
 17:03:35 22 hot material swinging from chains and drive  
 17:03:38 23 five, six miles through downtown Dayton in  
 17:03:42 24 order to dump it at this site, correct?  
 17:03:42 25 MR. ROMINE: Objection. Asked and

17:03:44 1 answered four times.  
 17:03:45 2 THE WITNESS: Well, it was locked in  
 17:03:47 3 position, it wasn't hanging. I mean, it wasn't  
 17:03:49 4 swinging, but it was locked in position. Then  
 17:03:51 5 when you got there, he had to lower the lever to  
 17:03:54 6 release it and then tip it over, and somehow the  
 17:03:59 7 truck would dump it off, so I --  
 17:04:02 8 BY MR. HAUGHEY:  
 17:04:02 9 Q. Okay. Now, I believe you  
 17:04:04 10 testified that you believed it was Duriron  
 17:04:10 11 waste because you saw it on a Duriron -- you  
 17:04:13 12 saw the name Duriron on the side?  
 17:04:15 13 A. Correct.  
 17:04:15 14 Q. Okay. Was there a logo on the  
 17:04:17 15 side?  
 17:04:18 16 A. No.  
 17:04:19 17 Q. Okay. Do you know how to spell  
 17:04:24 18 the name Duriron?  
 17:04:27 19 MR. ROMINE: Objection. Asked and  
 17:04:29 20 answered.  
 17:04:29 21 THE WITNESS: No.  
 17:04:29 22 BY MR. HAUGHEY:  
 17:04:29 23 Q. Okay. Do you know -- well, the  
 17:04:38 24 only other waste that I remember you talking  
 17:04:40 25 about coming from Duriron was this oily waste.

17:04:44 1 A. Right. Correct.

17:04:44 2 Q. Okay. How did this waste get to

17:04:47 3 the site?

17:04:50 4 A. In a similar way, but the -- it

17:04:53 5 looked more like a container than -- than an

17:04:58 6 open pit.

17:05:00 7 Q. Okay. Would it come on a truck

17:05:03 8 that you thought was a Duriron truck because of

17:05:07 9 the name on the side?

17:05:09 10 A. Yes.

17:05:09 11 Q. Okay. All right. And do you know

17:05:13 12 what type of -- was it a coolant, a hydraulic

17:05:10 13 fluid, a waste oil or -- or just what was your

17:05:32 14 impression of what it was?

17:05:34 15 A. I wasn't really sure.

17:05:35 16 Q. Okay. Was it something that could

17:05:39 17 be salvaged and reused as oil somewhere else?

17:05:33 18 A. Not to my knowledge.

17:05:37 19 Q. Okay. Other than this hot waste

17:05:40 20 and the oily liquid, I understand your

17:05:43 21 testimony to be that Duriron sent no other

17:05:45 22 waste at all to this site, correct?

17:05:47 23 A. Correct.

17:05:48 24 Q. Okay. All right. Okay. Do you

17:05:57 25 remember testifying in 2012 that the

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17:06:00 1 Dayton-Walther Company was a foundry that sent

17:06:05 2 waste to this site as well, correct?

17:06:10 3 A. I don't remember.

17:06:11 4 Q. Okay. Do you know what

17:06:15 5 Dayton-Walther did?

17:06:19 6 A. No. I'd say no.

17:06:24 7 Q. You don't know whether they --

17:06:27 8 didn't they make steel wheels and rims?

17:06:29 9 MR. ROMINE: Objection. Asked and

17:06:39 10 answered.

17:06:30 11 MR. HAUGHEY: I'm trying to help his

17:06:31 12 memory.

17:06:31 13 BY MR. HAUGHEY:

17:06:31 14 Q. Did they not make steel rims and

17:06:34 15 wheels?

17:06:38 16 MR. ROMINE: Objection. Asked and

17:06:38 17 answered.

17:06:38 18 THE WITNESS: Like I said, I don't --

17:06:38 19 BY MR. HAUGHEY:

17:06:38 20 Q. Okay. So that doesn't help your

17:06:38 21 memory?

17:06:39 22 A. No.

17:06:40 23 Q. All right. Thank you. Now, I --

17:06:44 24 when I was looking at your deposition in 2012,

17:06:49 25 you testified that a truck like those lugger

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17:06:54 1 trucks was also used to deliver waste to the

17:06:59 2 site from Franklin Iron and Metal and Patterson

17:07:02 3 Iron and Metal. Do you remember giving that

17:07:04 4 testimony?

17:07:04 5 A. Correct.

17:07:05 6 Q. Okay. Do you know how far away

17:07:12 7 from the site Dayton-Walther was located?

17:07:18 8 A. Yes, it was south of South Dayton

17:07:23 9 Dump.

17:07:23 10 Q. Okay. About how far? Give me a

17:07:24 11 number of, let's say, city blocks.

17:07:29 12 A. Half a mile.

17:07:29 13 Q. Okay. Half mile. Okay. Didn't

17:07:32 14 you testify earlier today that your dad was

17:07:38 15 friends with the -- the Walther family?

17:07:41 16 A. Was that today? I --

17:07:42 17 Q. Yeah, today. Earlier today.

17:07:44 18 A. Yes.

17:07:44 19 Q. Yeah. Okay. And that it was like

17:07:46 20 family friends, as I recall -- as I remember

17:07:48 21 it, correct?

17:07:50 22 A. A close -- a close acquaintance

17:07:50 23 not a close friend.

17:07:54 24 MR. COUGHLIN: I'm sorry, what was

17:07:56 25 the answer?

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17:07:58 1 THE WITNESS: A close acquaintance.

17:07:59 2 BY MR. HAUGHEY:

17:07:59 3 Q. Okay. All right. So am I to

17:08:02 4 believe that notwithstanding your knowing that

17:08:07 5 Dayton-Walther was a half mile at most away and

17:08:10 6 that Dayton-Walther was a close family friend

17:08:14 7 of your family, you have no idea what they did

17:08:18 8 as a business, is that correct?

17:08:20 9 MR. ROMINE: Objection.

17:08:20 10 THE WITNESS: Correct.

17:08:20 11 MR. ROMINE: Asked and answered.

17:08:20 12 THE WITNESS: Correct.

17:08:20 13 BY MR. HAUGHEY:

17:08:20 14 Q. That's still your testimony?

17:08:22 15 MR. ROMINE: Asked and answered.

17:08:23 16 THE WITNESS: My father might have

17:08:24 17 known, but I didn't.

17:08:24 18 BY MR. HAUGHEY:

17:08:25 19 Q. Okay. All right.

17:08:28 20 MR. ROMINE: Give me time to object.

17:08:27 21 THE WITNESS: Okay.

17:08:27 22 MR. ROMINE: Yeah. When he asks his

17:08:28 23 questions, just give me a moment, I might object.

17:08:29 24 I might not object.

17:08:32 25 THE WITNESS: Okay.

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17:08:32 1 BY MR. HAUGHEY:  
 17:08:32 2 Q. Now, when you and I were talking  
 17:08:35 3 yesterday, we were talking about some other  
 17:08:39 4 people who worked at the landfill with you. Do  
 17:08:43 5 you remember us talking about that?  
 17:08:43 6 A. Yes.  
 17:08:44 7 Q. Okay. Do you remember us talking  
 17:08:47 8 about -- I believe it was Mike Wendling working  
 17:08:52 9 at the site as well?  
 17:08:53 10 A. Yes.  
 17:08:54 11 Q. Okay. And do you recall me asking  
 17:08:56 12 you that the -- the question, if he had to give  
 17:09:00 13 a deposition, that you would expect him to be  
 17:09:04 14 truthful, correct?  
 17:09:05 15 A. Correct.  
 17:09:05 16 Q. Now, if I told you that he had no  
 17:09:11 17 recollection of Duriron sending any waste to  
 17:09:15 18 the site, would you think he was lying?  
 17:09:17 19 MR. ROMINE: Objection.  
 17:09:18 20 Hypothetical.  
 17:09:19 21 THE WITNESS: No.  
 17:09:19 22 MR. HAUGHEY: Okay. Well, if we're  
 17:09:21 23 going to give hypotheticals, I'm happy to show him  
 17:09:23 24 the deposition, David. Would you want to spend  
 17:09:25 25 the time doing that?

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17:09:26 1 MR. ROMINE: It's up to you.  
 17:09:27 2 MR. HAUGHEY: Okay. Then we might as  
 17:09:28 3 well do that.  
 17:09:28 4 BY MR. HAUGHEY:  
 17:09:30 5 Q. I'm going to hand you a document  
 17:09:32 6 which we will mark as Defendants' Exhibit 8,  
 17:09:39 7 which is the deposition that Mike Wendling gave  
 17:09:41 8 in the case.  
 17:09:41 9 (Thereupon, Defendants' Exhibit  
 17:09:41 10 Number 8, deposition of Michael A. Wendling, was  
 17:10:08 11 marked for purposes of identification.)  
 17:10:08 12 BY MR. HAUGHEY:  
 17:10:08 13 Q. Okay. Edward, could you please  
 17:10:10 14 turn to pages 60 to 62 starting at the bottom  
 17:10:19 15 of page 60? Yeah, these -- this deposition  
 17:10:27 16 format is in four pages per page, so the very  
 17:10:32 17 bottom of -- page 60 would be at the bottom of  
 17:10:38 18 the page that actually has four pages on it.  
 17:10:40 19 A. Yeah, I got it.  
 17:10:40 20 Q. Okay. Now, do you see at the  
 17:10:40 21 bottom there the question, are you familiar  
 17:10:42 22 with a company named Duriron? Duriron, yes.  
 17:10:44 23 And then there's a spelling of it.  
 17:10:44 24 Can you tell me a whole lot about  
 17:10:49 25 Duriron? No, not a whole lot. Do you see

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17:10:49 1 that?  
 17:10:51 2 A. Um-hum.  
 17:10:51 3 Q. Okay. Would you carry on to the  
 17:10:52 4 next page? Question, do you remember whether  
 17:10:54 5 Duriron brought any waste to the South Dayton  
 17:11:00 6 Dump site? Answer, I'm not going to say.  
 17:11:04 7 Honestly, I don't recall.  
 17:11:04 8 A. Wait, wait, I'm not -- where you  
 17:11:04 9 at?  
 17:11:04 10 Q. The next page, page 61. Turn that  
 17:11:08 11 page over. Top of the page should be page 61.  
 17:11:10 12 A. Okay. And where you at?  
 17:11:12 13 Q. Page 61. Do you see the question  
 17:11:14 14 by Mr. Silver, do you remember whether Duriron  
 17:11:17 15 brought any waste to the South Dayton Dump?  
 17:11:21 16 Answer, I'm not going to say. I honestly don't  
 17:11:23 17 recall.  
 17:11:24 18 A. I'm still not -- well, wait, wait.  
 17:11:24 19 Mr. Silver. Okay.  
 17:11:24 20 Q. Okay.  
 17:11:29 21 A. Okay. Yeah, I found it. Okay.  
 17:11:32 22 Okay.  
 17:11:32 23 Q. Okay. Now, would you look down  
 17:11:35 24 that page and read further where Mr. Silver  
 17:11:38 25 then goes on to ask Mr. Wendling about people

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17:11:44 1 who use the same type of lugger truck with  
 17:11:49 2 chains on it and brought waste to the site.  
 17:11:51 3 Do you see that series of  
 17:11:53 4 questions and answers there on page 61 and  
 17:11:57 5 continuing on to page 62?  
 17:12:03 6 A. Yes.  
 17:12:03 7 Q. Okay. Do you see the question,  
 17:12:05 8 what company -- on page 62 -- if you can  
 17:12:09 9 recall, used those kinds of trucks to dump  
 17:12:12 10 waste at the site? Answer, to what I can  
 17:12:15 11 recall, would have been Franklin Iron and Metal  
 17:12:20 12 and Walther's, what I can recall. Do you see  
 17:12:21 13 that answer?  
 17:12:21 14 A. Yes.  
 17:12:22 15 Q. Okay. Then the next question, do  
 17:12:27 16 you remember Duriron using these kinds of  
 17:12:27 17 trucks? Answer, I can't see the name Duriron  
 17:12:30 18 on anybody's trucks.  
 17:12:32 19 Okay. So you have no reason to  
 17:12:37 20 believe that he would have lied during that  
 17:12:39 21 deposition, correct?  
 17:12:40 22 A. Correct.  
 17:12:41 23 Q. Okay. And you previously  
 17:12:42 24 testified you found him to be truthful?  
 17:12:48 25 A. Yes.

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17:12:44 1 Q. Okay. All right. Thank you.  
 17:12:48 2 A. You want this back?  
 17:12:49 3 Q. No, why don't you hold onto it.  
 17:12:52 4 Thank you. Now, I believe you also testified  
 17:12:58 5 in your deposition that Franklin had its own  
 17:13:04 6 key to dump at night, correct?  
 17:13:08 7 A. I don't remember what -- I don't  
 17:13:08 8 remember.  
 17:13:11 9 Q. Okay. Why don't we look at one  
 17:13:14 10 other deposition from another employee. You  
 17:13:18 11 remember talking with me yesterday about Horace  
 17:13:23 12 Boesch, Jr.?  
 17:13:23 13 A. Right.  
 17:13:23 14 Q. Right. Okay. Why don't we do the  
 17:13:25 15 same thing we just did here. We'll do it with  
 17:13:29 16 Mr. Boesch's deposition as well. I'm going to  
 17:13:30 17 hand you a document which -- excuse me, are we  
 17:13:30 18 up to 10?  
 17:13:30 19 THE COURT REPORTER: 9.  
 17:13:30 20 BY MR. HAUGHEY:  
 17:13:40 21 Q. I'm going to hand you a document  
 17:13:41 22 which I'm asking to be marked as Defendants'  
 17:13:43 23 Exhibit 9, which is Mr. Boesch's deposition.  
 17:13:43 24 (Thereupon, Defendants' Exhibit  
 17:13:43 25 Number 9, deposition of Horace Boesch, Jr., taken

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17:13:43 1 on the 28th day of February, 2006, was marked for  
 17:14:12 2 purposes of identification.)  
 17:14:12 3 BY MR. HAUGHEY:  
 17:14:12 4 Q. Okay. Do you have Defendants'  
 17:14:15 5 Exhibit 9 in front of you?  
 17:14:19 6 A. Yes, I do.  
 17:14:19 7 Q. Okay. On the very top left part  
 17:14:19 8 of page one, do you see there where it says  
 17:14:21 9 this is a videotaped deposition of Horace  
 17:14:21 10 J. Boesch, B-O-E-S-C-H, Jr.? Do you see that  
 17:14:22 11 at the top of page one, it says who the  
 17:14:24 12 deposition is of?  
 17:14:24 13 A. I don't see video, see where it --  
 17:14:25 14 Q. That's okay. Just take your time.  
 17:14:27 15 We're at page one. We're on the same four  
 17:14:40 16 pages, they're numbered --  
 17:14:43 17 A. This number is lined. Is there a  
 17:14:43 18 line there?  
 17:14:43 19 Q. Yeah. Look at numbers nine and  
 17:14:48 20 ten on page one there.  
 17:14:49 21 A. Well, there's nothing on ten, and  
 17:14:52 22 nine says Montgomery, Ohio. Do we have the  
 17:14:56 23 same paper?  
 17:15:06 24 Q. Yeah. No, we don't. We're  
 17:15:07 25 using -- we have the same deposition, but we

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17:15:09 1 don't have the -- can I look at -- excuse me  
 17:15:14 2 for a moment. Can I look at yours to see if  
 17:15:14 3 it's --  
 17:15:14 4 A. Sure. Yes.  
 17:15:16 5 Q. Okay. Well, look at line 16 on  
 17:15:20 6 both of yours. It looks like I've got two  
 17:15:22 7 different versions of it. Line 16, and doesn't  
 17:15:28 8 line 16 confirm that that is, indeed, the  
 17:15:30 9 deposition of Horace Boesch, Jr.?  
 17:15:35 10 A. Yes.  
 17:15:36 11 Q. Okay. All right. Thank you. I'm  
 17:15:38 12 sorry for having two different formats.  
 17:15:40 13 A. That's okay.  
 17:15:40 14 Q. All right. Now, let's look at his  
 17:15:42 15 deposition, and let's see what he has to say.  
 17:15:45 16 Can you turn to page 25 of his deposition.  
 17:15:54 17 This is not going to work. We're  
 17:15:58 18 going to use my copy, because the formatting is  
 17:16:00 19 different. So when we're done here, we will  
 17:16:02 20 change and we'll put this one into the record  
 17:16:04 21 and I'll take off the tabs and we'll make this  
 17:16:07 22 one Defendants' Exhibit Number 9.  
 17:16:09 23 So I'm going to hand you, and,  
 17:16:09 24 again, apologize for the discrepancy with using  
 17:16:09 25 two different formats. Now, same question

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17:17:00 1 there on pages 25 -- at the bottom of page 25  
 17:17:04 2 there's some highlighting in yellow.  
 17:17:09 3 Can you read that series --  
 17:17:12 4 doesn't that series of questions and answers  
 17:17:14 5 identify other sources of foundry waste coming  
 17:17:20 6 to the site including NCR?  
 17:17:21 7 A. Correct.  
 17:17:22 8 Q. Okay. Reading further -- can I  
 17:17:26 9 have it back just for a second?  
 17:17:27 10 A. Yes.  
 17:17:28 11 Q. Okay. And didn't it also identify  
 17:17:31 12 Dayton-Walther as sending foundry waste, same  
 17:17:38 13 location?  
 17:17:40 14 A. Yes.  
 17:17:40 15 Q. Okay. Now, turn to page 61.  
 17:17:42 16 A. 61?  
 17:17:53 17 Q. Yes.  
 17:17:53 18 A. Okay.  
 17:17:54 19 Q. Can you hand it back to me and  
 17:17:56 20 then I'll ask you the question and then give it  
 17:17:58 21 to you?  
 17:18:01 22 Okay. On the bottom of page 61  
 17:18:04 23 carrying onto page 62, can you identify the  
 17:18:09 24 companies that Mr. Boesch testified dumped at  
 17:18:15 25 night and dumped foundry waste at the site?

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1 And tell me what those two  
2 companies are and tell me if you agree that one  
3 was the Dayton-Walther Corporation and one was  
4 a company called Finn, F I N N?

5 MR. ROMINE: I object to the extent  
6 you're asking him to -- to read the content of a  
7 deposition testimony and ask him what it says.

8 BY MR. HAUGHEY:

9 Q. Yeah. No, I'm asking, you know,  
10 do you agree that it represents the testimony  
11 of Mr. Boesch that Dayton-Walther and a company  
12 called Finn were also sending foundry waste to  
13 this site, correct?

14 MR. ROMINE: Same objection.

15 THE WITNESS: It just --

16 BY MR. HAUGHEY:

17 Q. That's okay. I mean, does it --  
18 does that highlighted text also -- in the  
19 deposition of Mr. Boesch also identify  
20 Dayton-Walther and Finn as having sent foundry  
21 waste to the site?

22 A. And NCR, yes.

23 MR. ROMINE: Same -- same objection.

24 THE WITNESS: Yes.

25 BY MR. HAUGHEY:

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1 Q. Okay. Now, turn to page 144 and  
2 145. Here, I'll tell you what. I'll turn the  
3 page to you. That way I can get the question  
4 and then I'll hand it right back to you.

5 A. All right.

6 Q. Thank you.

7 MR. ROMINE: Please give me time  
8 to --

9 THE WITNESS: Yeah. Yeah.

10 MR. ROMINE: Please give me time to  
11 object after he asks his questions.

12 BY MR. HAUGHEY:

13 Q. Okay. All right. What I'd like  
14 you to do is, on your own, look at the  
15 highlighted text of Mr. Boesch's deposition,  
16 highlighted in yellow, on pages 144 and  
17 carrying onto page 145, and tell me if you  
18 agree that that testimony -- if you have any  
19 reason to -- any reason to dispute the accuracy  
20 of that testimony.

21 A. Pardon me?

22 Q. Yeah. I want you to look at the  
23 testimony on pages 144 and 145 that is  
24 highlighted and tell me if there's any reason  
25 to believe that Mr. Boesch is lying.

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1 A. I don't believe he's lying, no.

2 Q. Okay. All right. Thank you. Do  
3 you know if anyone else has given a deposition  
4 who worked at the landfill along with you,  
5 other than Mike Wendling and Horace Boesch,  
6 Jr.?

7 A. Well, I think your information  
8 isn't quite accurate. As far as Horace, to my  
9 knowledge, if he worked at the dump, it had to  
10 have been in the '30s or '40s.

11 Q. Okay. Well, how about if I --  
12 Horace Boesch, Jr.

13 A. That's what I mean, I'm sorry,  
14 junior, junior, junior.

15 Q. Right, right, junior would --  
16 we're not talking about senior, we're talking  
17 about junior.

18 A. Yeah, in the -- before my time,  
19 before the '60s --

20 Q. Yeah. Yeah.

21 A. -- I don't remember. I made a  
22 statement yesterday that his involvement on the  
23 dump, to my knowledge, was only the erecting --  
24 the disassembling and erecting of a certain  
25 building they -- they got from Wright-Patterson

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1 Air Force Base.

2 Q. Okay. But based on what we just  
3 looked at in terms of his deposition testimony,  
4 he seems to have a lot more knowledge about  
5 waste disposal than what you think he has,  
6 correct?

7 MR. ROMINE: Objection. Calls for  
8 opinion.

9 THE WITNESS: At that time frame,  
10 yes.

11 BY MR. HAUGHEY:

12 Q. Yes. Okay. Thank you.

13 A. Um-hum.

14 Q. All right.

15 MR. ROMINE: Steve, can you make as  
16 an exhibit -- or mark as an exhibit the deposition  
17 testimony that you put in front of him?

18 MR. HAUGHEY: I did. Yes, let's do  
19 that. I'll tell you what. Why don't we do this,  
20 David: Why don't I just wait till we're done,  
21 because I'd like to wrap up, and then we'll fix  
22 the discrepancy, and, again, I apologize for  
23 having the wrong format.

24 BY MR. HAUGHEY:

25 Q. Okay. Let's talk a little bit --

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17:22:15 1 I'm close to being done. I want to talk about  
 17:22:19 2 your memory. Edward, you have an amazing  
 17:22:21 3 memory of dates from the '60s, from 1960, when  
 17:22:24 4 you were eight, to early '70s, about what took  
 17:22:28 5 place at the landfill, correct?  
 17:22:30 6 A. Yes.  
 17:22:30 7 Q. Right. And you've testified over  
 17:22:32 8 the last couple of days about McCall's waste  
 17:22:37 9 starting in 1963 and ending in this day,  
 17:22:40 10 remember -- remember you had -- amazing.  
 17:22:43 11 So did -- does your memory also --  
 17:22:47 12 is your memory that good that you remember  
 17:22:49 13 other things that occurred in the '60s as well?  
 17:22:53 14 How about, you know, some of the  
 17:22:55 15 bigger events, the national, the worldwide  
 17:22:59 16 events that took place in the '60s, do you  
 17:22:58 17 remember those?  
 17:23:00 18 A. Oh, yeah.  
 17:23:01 19 Q. Okay.  
 17:23:01 20 MR. ROMINE: Objection to relevance.  
 17:23:04 21 BY MR. HAUGHEY:  
 17:23:04 22 Q. All right. Do you remember what  
 17:23:07 23 year John F. Kennedy was elected?  
 17:23:09 24 MR. ROMINE: Objection. Relevance.  
 17:23:10 25 THE WITNESS: Elected?

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17:23:10 1 BY MR. HAUGHEY:  
 17:23:11 2 Q. Elected, yeah.  
 17:23:11 3 A. I believe 1960.  
 17:23:13 4 Q. Do you remember when his brother,  
 17:23:17 5 Robert F. Kennedy, was assassinated?  
 17:23:19 6 MR. ROMINE: Same objection.  
 17:23:21 7 THE WITNESS: I believe '65 or '66.  
 17:23:25 8 BY MR. HAUGHEY:  
 17:23:26 9 Q. Okay. All right. Do you remember  
 17:23:30 10 if we -- do you remember what year in the '60s  
 17:23:33 11 we landed a man on the moon?  
 17:23:34 12 MR. ROMINE: Same objection.  
 17:23:48 13 THE WITNESS: I can only state it was  
 17:23:50 14 in the early '60s, but I don't have the definite  
 17:23:52 15 date. It was the early '60s.  
 17:23:55 16 BY MR. HAUGHEY:  
 17:23:55 17 Q. Okay. Do you remember when  
 17:23:59 18 John F. Kennedy was assassinated?  
 17:24:00 19 MR. ROMINE: Same objection.  
 17:24:02 20 THE WITNESS: Yeah, '63, I believe.  
 17:24:03 21 BY MR. HAUGHEY:  
 17:24:03 22 Q. Okay. Do you remember when the  
 17:24:10 23 Civil Rights riots occurred in Dayton?  
 17:24:12 24 MR. ROMINE: Same objection.  
 17:24:20 25 THE WITNESS: I believe it to be '64.

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17:24:21 1 '65, but I'm leaning more towards '65 called the  
 17:24:26 2 '65 riots of -- like in Detroit and so on.  
 17:24:26 3 BY MR. HAUGHEY:  
 17:24:29 4 Q. All right. Okay. Thank you. All  
 17:24:30 5 right. Now, did Bill Walsh or Larry Silver or  
 17:24:39 6 David ever help you with your memory of the  
 17:24:44 7 customers who used this site?  
 17:24:44 8 A. No.  
 17:24:46 9 Q. Did they ever correct a statement  
 17:24:49 10 you made about a customer at this site?  
 17:24:49 11 A. No.  
 17:24:56 12 Q. Okay. Did they ever tell you that  
 17:24:57 13 you said something different in your deposition  
 17:25:00 14 in 2012 than what you're saying today?  
 17:25:02 15 A. No.  
 17:25:03 16 Q. Okay. Now, your deposition notice  
 17:25:10 17 gives your address as Snow Hill, North  
 17:25:13 18 Carolina. Did you know that?  
 17:25:14 19 A. Correct.  
 17:25:14 20 Q. Okay. But yet you testified  
 17:25:18 21 earlier that you've been living up here for at  
 17:25:21 22 least the last year and a half, not in North  
 17:25:23 23 Carolina, correct?  
 17:25:24 24 A. Correct.  
 17:25:25 25 Q. Okay. So that's not the correct

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17:25:27 1 address for you anymore, Snow Hill, North  
 17:25:32 2 Carolina, correct?  
 17:25:32 3 A. Correct.  
 17:25:33 4 Q. Okay. All right. Now, the last  
 17:25:40 5 thing I have, you and I talked a lot yesterday,  
 17:25:45 6 and I specifically asked you if anyone was  
 17:25:50 7 paying for your hotel or lodging and food up  
 17:25:53 8 here for purposes of this deposition. Do you  
 17:25:56 9 remember me asking you that?  
 17:25:57 10 A. Um-hum.  
 17:25:57 11 Q. Yeah. And do you remember telling  
 17:26:00 12 me the answer was no?  
 17:26:03 13 A. No, I -- because I wouldn't have  
 17:26:07 14 lied, and I'd remember I -- it was -- I don't  
 17:26:09 15 know how it was paid for, okay?  
 17:26:12 16 Q. No, that -- that's not what I  
 17:26:13 17 asked you. What I recall asking you was, was  
 17:26:16 18 anyone paying for your hotel and meals for  
 17:26:19 19 purposes of this deposition and your saying no.  
 17:26:22 20 A. Oh, no, because I know better.  
 17:26:23 21 Q. Okay. So they are. Okay. So --  
 17:26:25 22 A. Um-hum.  
 17:26:26 23 Q. You just -- you may have  
 17:26:28 24 misremembered, is that what you're saying?  
 17:26:30 25 A. Or maybe I didn't understand the

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17:26:33 1 exact way you worded it.

17:26:34 2 Q. Okay. Do you remember me also

17:26:38 3 asking you if you met with anyone else before

17:26:42 4 your deposition, other than Bill Walsh, and

17:26:44 5 your saying no?

17:26:48 6 A. But that wouldn't be consistent.

17:26:52 7 We had dinner. I think we talked about I had

17:26:54 8 dinner with -- but talking about deposition?

17:26:54 9 Yeah. No, I -- you know, no, no, no.

17:26:57 10 Q. That's what I meant, yeah. So it

17:26:58 11 may have been just a misunderstanding about --

17:26:59 12 A. Right.

17:27:00 13 Q. -- what you thought the question

17:27:01 14 was about?

17:27:01 15 A. Right.

17:27:02 16 Q. Okay. Do you recall the testimony

17:27:05 17 earlier about your receiving the two five

17:27:09 18 hundred dollar checks?

17:27:09 19 A. Correct.

17:27:10 20 Q. Did those checks state what they

17:27:13 21 were for?

17:27:13 22 A. Yes.

17:27:14 23 Q. What were they for?

17:27:14 24 A. Gas mileage and I think lodging

17:27:24 25 and food, I think, but I'm not sure about the

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17:27:26 1 lodging and food.

17:27:31 2 Q. Okay. Both of them for the same

17:27:33 3 thing?

17:27:33 4 A. Correct.

17:27:34 5 Q. Okay. Why would you be paid

17:27:34 6 twice? Did you make two trips up here in 2012?

17:27:39 7 A. No, I went back to Snow Hill after

17:27:43 8 everything was done with the deposition and I

17:27:44 9 stayed -- stayed longer because I had -- people

17:27:48 10 had honey-do lists for me to do, so -- so I

17:27:53 11 think I moved down October -- it might have

17:27:58 12 been October of that year.

17:27:58 13 Q. Okay. I'm -- I'm confused.

17:27:58 14 A. No, no, no.

17:28:00 15 Q. You only came up one time for one

17:28:02 16 deposition in 2012, correct?

17:28:04 17 A. Correct. um-hum.

17:28:05 18 Q. Okay. Then why did you get two

17:28:06 19 five hundred dollar checks for mileage and

17:28:09 20 other expenses?

17:28:10 21 A. Because the trip coming up and the

17:28:12 22 trip going back.

17:28:13 23 Q. Really? So you made over a

17:28:17 24 thousand dollars for mileage for a trip up and

17:28:18 25 a trip back, correct?

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17:28:21 1 A. Um-hum.

17:28:21 2 MR. EDDY: Is that a yes, just for

17:28:23 3 the record?

17:28:23 4 BY MR. HAUGHEY:

17:28:23 5 Q. Is that a yes for the record?

17:28:29 6 A. Yes. Do you want me to explain

17:28:31 7 why?

17:28:33 8 Q. If you want to, sure.

17:28:34 9 A. It was a RV, a motor home, and I

17:28:37 10 was pulling a trailer behind it. That's why it

17:28:40 11 took so much gas.

17:28:42 12 MR. HAUGHEY: Okay. I'd like to take

17:28:47 13 a moment to look at my notes to see if I have

17:28:50 14 anything else. Thank you. I do. Oh, no, just

17:28:54 15 give me another moment here. I want to make sure

17:28:58 16 I don't miss something. Thank you.

17:28:58 17 BY MR. HAUGHEY:

17:29:09 18 Okay. I have just -- do you remember

17:29:12 19 ever filling out of a dumping ticket for Standard

17:29:18 20 Register?

17:29:18 21 A. No.

17:29:18 22 Q. Okay. Do you remember seeing any?

17:29:21 23 A. No.

17:29:21 24 Q. Okay. Do you remember filling out

17:29:23 25 a dumping ticket for Coca-Cola?

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17:29:27 1 A. No.

17:29:28 2 Q. Okay. Do you remember seeing them

17:29:30 3 in the pile?

17:29:32 4 A. Well, if you're talking about

17:29:34 5 sorting, yeah.

17:29:35 6 Q. No, no, no, dumping tickets. Do

17:29:37 7 you remember seeing dumping tickets with the

17:29:39 8 name Coca-Cola on them that maybe Kenneth would

17:29:43 9 have prepared?

17:29:43 10 A. Well, I made a statement yesterday

17:29:49 11 during the deposition that one of my jobs was

17:29:51 12 to staple them together, so I put DS, ES, FS,

17:29:58 13 but I really didn't pay attention of the name.

17:30:01 14 So --

17:30:01 15 Q. Okay. All right. So I just

17:30:02 16 wanted to confirm.

17:30:03 17 A. Okay.

17:30:04 18 MR. HAUGHEY: Just a moment. Thank

17:30:08 19 you.

17:30:08 20 (Pause in proceedings.)

17:30:43 21 MR. HAUGHEY: Thank you. I'm done.

17:30:47 22 MR. ROMINE: Do you want a break?

17:30:49 23 THE WITNESS: I'm okay if you want to

17:30:50 24 keep going.

17:30:50 25 MR. ROMINE: Okay.

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17:30:51 1 THE WITNESS: Get it done.  
 17:30:52 2 MR. HAUGHEY: Yeah, we're off the  
 17:30:53 3 record. We want to fix the label for Defendants'  
 17:30:54 4 Exhibit 9, which I believe is the Boesch depo.  
 17:30:55 5 (Thereupon, Defendants' Exhibit  
 17:30:56 6 Number 10, deposition of Horace Boesch, Jr., taken  
 17:30:57 7 on December 1st, 2011, was marked for purposes of  
 17:31:48 8 identification.)  
 17:31:48 9 (Pause in proceedings.)  
 17:31:52 10 CROSS-EXAMINATION  
 17:31:52 11 BY MR. PIERCE:  
 17:31:52 12 Q. Mr. Grillot, my name is David  
 17:31:54 13 Pierce. I'm an attorney at Coolidge Wall. I  
 17:31:57 14 represent two companies. Fickert Devco and  
 17:32:11 15 Dayton Industrial Drum, okay?  
 17:32:11 16 A. Um-hum.  
 17:32:13 17 Q. I just have a few questions for  
 17:32:16 18 you. Famous words from a lawyer. Did I  
 17:32:18 19 understand you correctly yesterday to say that  
 17:32:21 20 you had actually gotten a job at A.E. Fickert  
 17:32:24 21 at some point in time?  
 17:32:25 22 A. Correct.  
 17:32:28 23 Q. Now, did you work directly for  
 17:32:28 24 A.E. Fickert or did you work for one of the  
 17:32:30 25 other drivers at A.E. Fickert?

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17:32:31 1 A. I worked for A.E. Fickert.  
 17:32:32 2 Q. And for what period of time did  
 17:32:34 3 you work for A.E. Fickert?  
 17:32:41 4 A. I believe '69 and maybe part of  
 17:32:49 5 '70.  
 17:32:50 6 Q. Do you remember who your  
 17:32:51 7 supervisor was at A.E. Fickert?  
 17:32:54 8 A. Darrell Fickert.  
 17:32:56 9 Q. And what were your job duties?  
 17:32:59 10 A. I started out as a painter.  
 17:33:04 11 Q. And when you were painting, where  
 17:33:06 12 were you painting?  
 17:33:07 13 A. They do fire alterations, so  
 17:33:12 14 houses throughout Dayton that had been damaged  
 17:33:15 15 by wind or fire.  
 17:33:18 16 Q. Residential?  
 17:33:17 17 A. Correct.  
 17:33:18 18 Q. All right. And did you, in your  
 17:33:21 19 employment at A.E. Fickert, take materials to  
 17:33:24 20 the South Dayton Dump?  
 17:33:25 21 A. I personally did not.  
 17:33:27 22 Q. Over what period of time do you  
 17:33:30 23 recall A. E. Fickert taking materials to the  
 17:33:32 24 South Dayton Dump?  
 17:33:34 25 A. What time period?

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17:33:36 1 Q. Yes.  
 17:33:38 2 A. It would have to been '67, '68,  
 17:33:45 3 somewhere in that time frame.  
 17:33:47 4 Q. And when did A.E. Fickert stop  
 17:33:49 5 taking materials to the South Dayton Dump?  
 17:33:51 6 A. It was during -- I was working  
 17:33:53 7 there, he got a big Dumpster, and I don't know  
 17:33:56 8 what they done with it after that, so --  
 17:33:56 9 Q. All right.  
 17:33:58 10 A. A roll on, pull on.  
 17:33:58 11 Q. So in -- during 1967 or 1968, A.E.  
 17:33:59 12 Fickert stopped taking materials to the South  
 17:34:00 13 Dayton Dump?  
 17:34:00 14 A. Around that time frame, yeah.  
 17:34:00 15 Q. And when they did take materials  
 17:34:01 16 to the dump, I think you said in your last  
 17:34:02 17 deposition that they were taking materials  
 17:34:03 18 maybe twice a week, something like that?  
 17:34:03 19 A. At most, yeah.  
 17:34:04 20 Q. All right. And the materials they  
 17:34:05 21 were taking were general construction debris,  
 17:34:06 22 that type of thing?  
 17:34:06 23 A. Correct.  
 17:34:06 24 Q. And do you know if A.E. Fickert  
 17:34:07 25 was also taking materials to other dumpsites?

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17:34:07 1 A. I wouldn't have known that.  
 17:34:07 2 Q. All right. So they may have been  
 17:34:08 3 taking materials to EPA approved sites?  
 17:34:08 4 A. Correct.  
 17:34:09 5 Q. And when did Fickert stop -- or  
 17:34:09 6 start taking materials to the South Dayton  
 17:34:09 7 Dump? I think you gave me the end date. I  
 17:34:09 8 want to make sure I got the start date.  
 17:40:00 9 A. To my knowledge, it would have  
 17:40:02 10 been the '67, '68 period.  
 17:40:07 11 Q. All during that same time period  
 17:40:09 12 was the starting and stop?  
 17:40:10 13 A. Right.  
 17:40:10 14 Q. And the only trucks that you can  
 17:40:14 15 recall from A.E. Fickert were pickup trucks?  
 17:40:17 16 A. Correct.  
 17:40:18 17 Q. And which part of the site did  
 17:40:20 18 they take the materials to?  
 17:40:22 19 A. That would have been the second  
 17:40:23 20 tier.  
 17:40:26 21 Q. And what happened to the materials  
 17:40:26 22 when they were taken there?  
 17:40:28 23 A. It was burnt.  
 17:40:31 24 Q. Let's switch gears and talk about  
 17:40:34 25 Dayton Industrial Drum, if we can. In 2012,

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17:40:38 1 you were asked about drums coming from the  
 17:40:41 2 Barrel Factory, do you recall that?  
 17:40:42 3 A. Yes, I do.  
 17:40:43 4 Q. And you were also asked back then  
 17:40:45 5 if you had heard of Dayton Industrial Drum, do  
 17:40:48 6 you recall that?  
 17:40:48 7 A. Yes.  
 17:40:48 8 Q. Back then, you didn't specifically  
 17:40:52 9 mention drums coming from Dayton Industrial  
 17:40:55 10 Drums to the South Dayton Dump, do you know  
 17:40:57 11 why?  
 17:40:59 12 A. I do not.  
 17:41:01 13 Q. Do you know specifically if drums  
 17:41:06 14 came from Dayton Industrial Drums rather than  
 17:41:10 15 the barrel company to the South Dayton Dump?  
 17:41:14 16 A. I believe because they would have  
 17:41:16 17 liquid in them, you know, that was my -- you  
 17:41:20 18 know.  
 17:41:20 19 Q. All right. I'm asking you  
 17:41:22 20 though -- you've talked about two companies,  
 17:41:23 21 the barrel company and Dayton Industrial Drum,  
 17:41:26 22 okay?  
 17:41:26 23 A. Um-hum.  
 17:41:28 24 Q. Yes?  
 17:41:29 25 A. Yes. Yes. Yes.

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17:41:31 1 Q. And do you know whether the drums  
 17:41:33 2 that went to the South Dayton Dump came from  
 17:41:36 3 Dayton Industrial Drum as opposed to the barrel  
 17:41:38 4 company?  
 17:41:40 5 A. I don't know that.  
 17:41:41 6 Q. All right. So the drums -- all  
 17:41:43 7 the drums that may have come to the South  
 17:41:46 8 Dayton Dump, may have come from the barrel  
 17:41:48 9 company rather than Dayton Industrial Drum?  
 17:41:50 10 A. Could have, yes.  
 17:41:51 11 Q. And do you have any knowledge, as  
 17:41:53 12 you sit here today, as to those two companies  
 17:41:56 13 being the same?  
 17:41:58 14 A. Do I believe that?  
 17:42:02 15 Q. Do you have any knowledge that  
 17:42:05 16 they are the same?  
 17:42:08 17 A. No, I don't have any knowledge,  
 17:42:07 18 no.  
 17:42:07 19 Q. Did I hear you right yesterday to  
 17:42:14 20 say you did not recall the name Dayton  
 17:42:18 21 Industrial Drum until you were working at the  
 17:42:20 22 Powell Road Landfill?  
 17:42:22 23 A. I believe so.  
 17:42:24 24 Q. And when was that?  
 17:42:29 25 A. '70, 1970, somewhere in there.

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17:42:32 1 Q. All right. So prior to 1970, you  
 17:42:34 2 don't even recall the name Dayton Industrial  
 17:42:40 3 Drum?  
 17:42:40 4 A. I'm not -- I don't remember.  
 17:42:48 5 Q. And how often were you at the  
 17:42:52 6 South Dayton Landfill after you started working  
 17:42:55 7 at Powell Road?  
 17:42:57 8 A. How long after?  
 17:42:58 9 Q. Yeah, how often -- I assume once  
 17:43:01 10 you started working at Powell Road, you would  
 17:43:03 11 come to the South Dayton Landfill less often.  
 17:43:06 12 A. Right.  
 17:43:07 13 Q. And how often would you come to  
 17:43:10 14 the South Dayton Landfill while you were  
 17:43:11 15 working at the Powell Road Landfill?  
 17:43:15 16 A. It would be evenings and weekends  
 17:43:17 17 until -- no, no, no. Evenings and weekends.  
 17:43:20 18 Q. All right. I want to talk then  
 17:43:24 19 about your knowledge of drums coming from the  
 17:43:26 20 Barrel Factory.  
 17:43:27 21 Back in 2012, you told Mr. Silver  
 17:43:30 22 that that was from talking to other drivers.  
 17:43:33 23 Do you recall that?  
 17:43:34 24 A. Correct.  
 17:43:35 25 Q. Do you have any personal knowledge

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17:43:36 1 from your own eyes or your own ears of drums  
 17:43:42 2 coming from the Barrel Factory?  
 17:43:43 3 A. No.  
 17:43:43 4 Q. The trucks that you indicated  
 17:43:48 5 from -- that you thought were Dayton Industrial  
 17:43:52 6 Drums' trucks, they had no markings on them  
 17:43:58 7 whatsoever, did they?  
 17:43:58 8 A. No.  
 17:43:58 9 Q. And whether they were coming from  
 17:44:02 10 Dayton Industrial Drums or someone else, when  
 17:44:05 11 is the first time you can recall seeing drums  
 17:44:09 12 that indicated they were from Dayton Industrial  
 17:44:11 13 Drum?  
 17:44:13 14 A. Could you rephrase that again,  
 17:44:13 15 please?  
 17:44:13 16 Q. Sure. It's a confusing question.  
 17:44:15 17 When is the first time you can recall seeing a  
 17:44:17 18 drum that said Dayton Industrial Drum on it?  
 17:44:24 19 A. I would have to go back, I don't  
 17:44:26 20 know.  
 17:44:29 21 Q. Sometime in the '70s?  
 17:44:32 22 A. Yeah. Yes. Yes.  
 17:44:34 23 Q. At what period of time did you see  
 17:44:38 24 those drums up until?  
 17:44:47 25 A. Mid '70s.

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17:44:49 1 Q. So sometime starting in the '70s  
17:44:51 2 until the mid '70s you saw drums that indicated  
17:44:53 3 they were from Dayton Industrial Drums?  
17:44:58 4 A. Yes.  
17:44:59 5 Q. Now, let's talk about who was  
17:45:01 6 bringing those drums there. Other companies  
17:45:03 7 brought drums into the South Dayton Landfill,  
17:45:06 8 didn't they?  
17:45:07 9 A. Yes.  
17:45:07 10 Q. All right. Which companies do you  
17:45:11 11 recall bringing drums to the South Dayton  
17:45:20 12 Landfill?  
17:45:20 13 A. Delco Products, Frigidaire,  
17:45:28 14 Inland. In my mind, that would be about it.  
17:45:38 15 Q. How about Delphi and GM?  
17:45:43 16 A. GM, yes. Yes.  
17:45:46 17 Q. And those other companies could  
17:45:48 18 bring drums to the landfill, some of them even  
17:45:51 19 had keys to the landfill, didn't they?  
17:45:54 20 A. Some of them what?  
17:45:54 21 Q. Had keys to the landfill for -- to  
17:45:56 22 come in at night?  
17:45:57 23 A. Yes.  
17:45:57 24 Q. Which ones had keys to the  
17:46:00 25 landfill that also delivered drums to the

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17:46:02 1 landfill?  
17:46:13 2 A. I want to say Delco and maybe  
17:46:13 3 Delphi.  
17:46:21 4 Q. And how often were those companies  
17:46:23 5 bringing drums to the landfill?  
17:46:27 6 A. Once a week.  
17:46:30 7 Q. How do you know -- when you see a  
17:46:37 8 Dayton Industrial Drum drum, how do you know  
17:46:41 9 it? What's it look like?  
17:46:42 10 A. Well, I think I mentioned  
17:46:44 11 yesterday, there was a slip that would be on  
17:46:47 12 the side of the drum that was taped to plastic,  
17:46:49 13 and I think there was mentioned another  
17:46:50 14 company, too, that had the contents and where  
17:46:58 15 it came from.  
17:46:56 16 Q. All right. Are there any markings  
17:46:57 17 though on the drum itself?  
17:46:58 18 A. No. No. No.  
17:47:00 19 Q. All right. So there would be a  
17:47:02 20 slip on the drum that would say where it came  
17:47:05 21 from or what it was?  
17:47:06 22 A. Right.  
17:47:06 23 Q. And it could be either of those,  
17:47:08 24 this is a drum from a certain company or this  
17:47:12 25 is what it is?

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17:47:13 1 A. Yes.  
17:47:15 2 Q. Are there any other markings on  
17:47:17 3 the drums themselves?  
17:47:18 4 A. Yes.  
17:47:18 5 Q. All right. What other markings  
17:47:22 6 would be on the drums to indicate it came from  
17:47:25 7 or was affiliated with Dayton Industrial Drum?  
17:47:28 8 A. It would not.  
17:47:40 9 MR. PIERCE: I think that's all I  
17:47:41 10 have for you. Thank you.  
17:47:42 11 THE WITNESS: Thank you.  
17:47:46 12 MR. ROMINE: Is there anybody else in  
17:47:47 13 the room that has questions for the witness? Is  
17:47:53 14 there anyone on the telephone that has questions  
17:47:56 15 for the witness?  
17:47:57 16 MR. SHARETT: This is Anthony  
17:47:59 17 Sharett. I have a few questions on behalf of  
17:48:02 18 DP&L.  
17:48:02 19 MR. ROMINE: Are you ready to go  
17:48:02 20 ahead?  
17:48:02 21 CROSS-EXAMINATION  
17:48:02 22 BY MR. SHARETT:  
17:48:11 23 Q. Sir, my name is Anthony Sharett on  
17:48:13 24 behalf of DP&L. I just have a few questions.  
17:48:17 25 I believe earlier you testified

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17:48:18 1 that you thought or anticipated that you may  
17:48:22 2 have a chance to own the South Dayton Dump at  
17:48:26 3 one time, is that correct?  
17:48:27 4 A. Correct.  
17:48:27 5 Q. And before I continue, just let me  
17:48:29 6 make sure, it's late in the day here, I guess  
17:48:32 7 close to six o'clock here. You're still able  
17:48:34 8 and feeling well enough to answer just a few  
17:48:36 9 questions?  
17:48:36 10 A. Yes, sir.  
17:48:37 11 Q. Okay. And let me ask you, had you  
17:48:41 12 actually been able to garner ownership of the  
17:48:45 13 site, what would you have done with the site?  
17:48:47 14 MR. ROMINE: Objection.  
17:48:52 15 Hypothetical. Form of the question.  
17:48:54 16 THE WITNESS: I planned to operate it  
17:48:57 17 pretty much in my manner, but I -- I would have  
17:49:01 18 changed a few things.  
17:49:03 19 BY MR. SHARETT:  
17:49:03 20 Q. What would you have changed?  
17:49:04 21 MR. ROMINE: Same objection.  
17:49:07 22 THE WITNESS: I would have -- I had  
17:49:09 23 a -- a drawing of how I wanted to puts slabs, like  
17:49:16 24 the skids, and recycle more of the material.  
17:49:20 25 As I got older, I learned that wood

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17:49:24 1 and stuff like that can be pulverized and made  
 17:49:27 2 into mulch. Tires could be shredded into -- go  
 17:49:32 3 into asphalt and so on and so forth.  
 17:49:35 4 BY MR. SHARETT:  
 17:49:38 5 Q. So you would have tried to  
 17:49:37 6 repurpose some of the items that were brought  
 17:49:39 7 to the dump?  
 17:49:39 8 MR. ROMINE: Same objection.  
 17:49:41 9 THE WITNESS: Correct.  
 17:49:43 10 BY MR. SHARETT:  
 17:49:43 11 Q. What else would you -- what else  
 17:49:44 12 would you have done differently?  
 17:49:46 13 MR. ROMINE: Same objection.  
 17:49:46 14 BY MR. SHARETT:  
 17:49:53 15 Q. You said you would have done a few  
 17:49:56 16 things differently. I'm just trying to --  
 17:49:55 17 you've told me one. What else?  
 17:49:57 18 MR. ROMINE: Same objection.  
 17:50:03 19 THE WITNESS: There's con -- concrete  
 17:50:04 20 that -- and they're doing it today that can be  
 17:50:08 21 pulverized, I think that's the right word, broken  
 17:50:11 22 up and reused, so just -- I would purchase those  
 17:50:14 23 machines, what are very expensive, and I talked to  
 17:50:20 24 it -- about it with a gentleman that had a  
 17:50:23 25 landfill down in West Carrollton, and we kind of

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17:50:24 1 had a idea of what we were going to do.  
 17:50:30 2 BY MR. SHARETT:  
 17:50:31 3 Q. And the gentleman that you talked  
 17:50:33 4 to was -- what line of business was he in?  
 17:50:36 5 A. In -- in the same business as  
 17:50:40 6 Alcine, he -- he had a landfill.  
 17:50:43 7 Q. And when did you have that  
 17:50:46 8 conversation?  
 17:50:48 9 A. In the early '80s.  
 17:50:51 10 Q. And how many times did you talk  
 17:50:52 11 with him about this topic?  
 17:50:55 12 A. Half a dozen.  
 17:50:59 13 Q. And what happened?  
 17:51:04 14 A. He mentioned to me that if I went  
 17:51:06 15 to Dad and asked for two million dollars to buy  
 17:51:11 16 the -- the one that breaks up the skids and  
 17:51:14 17 stuff for mulch and -- and other products and  
 17:51:19 18 the one for the concrete.  
 17:51:22 19 Q. And so you would have tried to  
 17:51:29 20 break down some of the materials to repurpose  
 17:51:30 21 it, but you still would have run it as a  
 17:51:33 22 landfill, correct?  
 17:51:33 23 MR. ROMINE: Objection.  
 17:51:34 24 Hypothetical.  
 17:51:38 25 THE WITNESS: Correct.

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17:51:37 1 BY MR. SHARETT:  
 17:51:37 2 Q. And that means you still would  
 17:51:39 3 have allowed people to pay the company in order  
 17:51:44 4 to deliver items at the dump, correct?  
 17:51:46 5 MR. ROMINE: Same objection.  
 17:51:46 6 THE WITNESS: I had more of an idea  
 17:51:50 7 that if it was -- I would like to have done it --  
 17:51:54 8 because the incinerator and stuff at that  
 17:51:56 9 particular time was in operation, and I was  
 17:52:00 10 wanting to dump for free.  
 17:52:03 11 BY MR. SHARETT:  
 17:52:03 12 Q. Okay. But you still would have  
 17:52:04 13 operated as a dump, correct?  
 17:52:05 14 A. Yes.  
 17:52:05 15 MR. ROMINE: Same objection. Give me  
 17:52:07 16 time to object.  
 17:52:07 17 Q. Okay. And what was -- I'm sorry.  
 17:52:09 18 You were answering while there was an  
 17:52:11 19 objection. What did you -- and I'm on the  
 17:52:12 20 phone, so what did you say?  
 17:52:14 21 A. Yes.  
 17:52:15 22 Q. Okay. So I think you had also  
 17:52:19 23 testified that -- and I believe this was  
 17:52:21 24 yesterday, that, you know, you were wanting to  
 17:52:24 25 testify to clear your conscience regarding

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17:52:29 1 operating the dump, correct?  
 17:52:30 2 A. Correct.  
 17:52:31 3 Q. And so I'm just trying to  
 17:52:34 4 reconcile the two, because on the one hand, you  
 17:52:37 5 say that you thought that you may -- you were  
 17:52:41 6 looking forward to owning the dump and running  
 17:52:42 7 it as a dump, but on the other, you say you're  
 17:52:44 8 here to testify to clear your conscience  
 17:52:47 9 regarding what happened at the dump.  
 17:52:50 10 Can you explain to me how you were  
 17:52:53 11 able to sort of reconcile those differences?  
 17:52:55 12 MR. ROMINE: Objection. Relevance.  
 17:52:57 13 THE WITNESS: Well, it would -- I  
 17:53:00 14 don't know if it sounds obvious, but you heard me  
 17:53:03 15 say that I would very seldom -- everything has a  
 17:53:09 16 use in this -- on this planet. We haven't just  
 17:53:12 17 found ways to use it, so I felt it would be to the  
 17:53:19 18 earth's best interests to recycle as much as  
 17:53:21 19 possible, which we're doing today, and eventually  
 17:53:26 20 digging up the dump and getting some of the --  
 17:53:30 21 because there are a lot of material that was done  
 17:53:33 22 earlier that -- that was quickly dumped without  
 17:53:35 23 knowing that some of the other products, like  
 17:53:38 24 glass and stuff like that, had a purpose.  
 17:53:41 25 So I was -- I was looking forward to

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17:53:44 1 the future and making it done right so my  
 17:53:49 2 conscience, I felt that would help do that.  
 17:53:54 3 BY MR. SHARETT:  
 17:53:58 4 Q. Switch gears a little bit and talk  
 17:53:59 5 about your health. It's been covered, I think,  
 17:54:03 6 at length over the last -- the last two days,  
 17:54:03 7 so I'm not going to belabor the point, but  
 17:54:08 8 your -- your physician that you see for your  
 17:54:09 9 pancreatitis, what was his name again?  
 17:54:12 10 MR. ROMINE: Asked and answered.  
 17:54:16 11 THE WITNESS: Al Samkari.  
 17:54:16 12 BY MR. SHARETT:  
 17:54:18 13 Q. And where's he -- where does he  
 17:54:20 14 practice, what city?  
 17:54:21 15 A. Dayton, Ohio.  
 17:54:22 16 Q. And when's the last time you've  
 17:54:26 17 seen that physician?  
 17:54:28 18 A. It would have been on the 4th of  
 17:54:33 19 this month.  
 17:54:35 20 Q. And -- and is that physician a  
 17:54:41 21 specialist?  
 17:54:47 22 A. I'm not sure.  
 17:54:48 23 Q. Does he specialize in dealing with  
 17:54:51 24 patients that have pancreatitis?  
 17:54:53 25 MR. ROMINE: Asked and answered.

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17:54:55 1 THE WITNESS: I know he's a  
 17:54:56 2 general -- general doctor, so I -- I guess that  
 17:55:00 3 would put him in that category, I'm not sure.  
 17:55:03 4 BY MR. SHARETT:  
 17:55:03 5 Q. But do you -- you don't know if he  
 17:55:05 6 specializes in dealing with people that have  
 17:55:07 7 your condition?  
 17:55:08 8 MR. ROMINE: Asked and answered.  
 17:55:09 9 THE WITNESS: I would say I don't  
 17:55:13 10 know.  
 17:55:13 11 BY MR. SHARETT:  
 17:55:13 12 Q. You don't know. Well, I don't  
 17:55:16 13 want you to guess. If you don't know, you  
 17:55:16 14 don't know.  
 17:55:17 15 A. I don't know.  
 17:55:17 16 Q. Is -- were you referred to him by  
 17:55:20 17 another physician?  
 17:55:20 18 A. No.  
 17:55:23 19 Q. Okay. So how did you find him?  
 17:55:28 20 A. He's a doctor that I had seen back  
 17:55:23 21 in the early '70s at Miami Valley Hospital.  
 17:55:30 22 Then just recently, we reunited meeting  
 17:55:45 23 together, and he's the one, well, you might  
 17:55:49 24 recall that I said, sent me down to Marco  
 17:55:52 25 Island in Florida to redo a house for him.

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17:55:57 1 Q. Okay. So when you saw him in the  
 17:56:01 2 '70s or whatever that was initially, what did  
 17:56:04 3 you see him for?  
 17:56:05 4 A. For the alcoholism.  
 17:56:07 5 Q. Okay. So -- and does he have a  
 17:56:11 6 private practice or is he part of a hospital or  
 17:56:14 7 something like that?  
 17:56:15 8 A. To my knowledge, at first, in the  
 17:56:20 9 '70s, he was head of the alcohol and  
 17:56:25 10 psychiatric -- or just the alcohol ward of  
 17:56:28 11 Miami Valley Hospital. It's called the care  
 17:56:30 12 unit.  
 17:56:33 13 Q. Have you seen any other physician  
 17:56:36 14 that specializes in the pancreatitis that  
 17:56:39 15 you've said that you've -- that you have?  
 17:56:41 16 A. Other than the ERs, no.  
 17:56:45 17 Q. Are you planning on doing that?  
 17:56:48 18 A. Yes, I am.  
 17:56:50 19 Q. How did you pay for the medical  
 17:56:53 20 care that you received by this -- by the  
 17:56:56 21 physician that you saw a few weeks -- or about  
 17:56:59 22 a month ago?  
 17:57:01 23 A. Because of my work arrangement  
 17:57:04 24 with him, he -- he didn't charge me.  
 17:57:13 25 Q. The investigator that we've talked

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17:57:15 1 about, is -- what's his last name? Mr. Walsh,  
 17:57:18 2 is that his name?  
 17:57:19 3 MR. ROMINE: Asked and answered.  
 17:57:23 4 THE WITNESS: Correct.  
 17:57:23 5 BY MR. SHARETT:  
 17:57:23 6 Q. Okay. How many times have you met  
 17:57:28 7 with him?  
 17:57:29 8 MR. ROMINE: Asked and answered.  
 17:57:34 9 THE WITNESS: A dozen times.  
 17:57:38 10 BY MR. SHARETT:  
 17:57:38 11 Q. Where do you meet with him?  
 17:57:44 12 A. Various locations.  
 17:57:47 13 Q. Well, give me a couple.  
 17:57:51 14 A. Probably most of them are at Old  
 17:57:55 15 Hickory restaurant here in Dayton.  
 17:57:58 16 Q. And how does he get in touch with  
 17:58:00 17 you to -- to have your meetings?  
 17:58:03 18 MR. ROMINE: Asked and answered.  
 17:58:04 19 THE WITNESS: Phone.  
 17:58:09 20 BY MR. SHARETT:  
 17:58:09 21 Q. And he pays for those meals where  
 17:58:11 22 you eat, correct?  
 17:58:13 23 A. Correct.  
 17:58:14 24 Q. Does he pay for anything else?  
 17:58:16 25 A. No.

MIKE MOBLEY REPORTING 937-222-2259

17:58:20 1 Q. Have you talked with any other  
17:58:22 2 investigators about this case, other than him?

17:58:25 3 A. No.

17:58:34 4 Q. You had mentioned that I think --  
17:58:38 5 correct me if I'm wrong -- with the University  
17:58:43 6 of Dayton, that you may have -- it may have  
17:58:46 7 been difficult for you to separate this case  
17:58:49 8 with some personal issues you may have had.  
17:58:50 9 Was that the correct party, the University of  
17:58:50 10 Dayton?

17:58:55 11 A. Yes.

17:58:56 12 MR. ROMINE: Asked and answered.

17:58:57 13 BY MR. SHARETT:

17:58:58 14 Q. Is that correct?

17:58:58 15 A. Yes.

17:59:00 16 MR. SHARETT: Okay. And just -- I  
17:59:03 17 mean, this -- for the -- for the attorney who's  
17:59:07 18 objecting, just -- I mean, it's okay to ask a  
17:59:11 19 question that's been asked and answered before.  
17:59:13 20 just -- that happens all the time, particularly  
17:59:16 21 when you're trying to ask a line of questions, but  
17:59:18 22 you can continue to object all day, that's fine.  
17:59:20 23 we've been doing it for nine hours.

17:59:23 24 BY MR. SHARETT:

17:59:22 25 Q. Do you have those biases, sir.

MIKE MOBLEY REPORTING 937-222-2259

17:59:26 1 against any of the other companies that we've  
17:59:28 2 talked about today, any similar biases against  
17:59:32 3 any other companies like you may have against  
17:59:34 4 the University of Dayton?

17:59:36 5 And take your time on this,  
17:59:37 6 because you've named a lot of companies so, you  
17:59:40 7 know, just -- are there any other companies  
17:59:43 8 that you think that you may feel a little  
9 conflicted?

10 A. Yes.

11 (Thereupon, the court reporter  
12 interrupted the proceedings.)

13 (Pause in proceedings.)

18:02:56 14 BY MR. SHARETT:

18:02:56 15 Q. All right. So I think we're back  
18:02:59 16 on the record. I think what I was asking you  
18:03:01 17 before we had to change the tape there was,  
18:03:05 18 were there any other parties that we've talked  
18:03:07 19 about today that you named where you may feel a  
18:03:11 20 little conflict because of some personal  
18:03:13 21 feelings you may have about the company, and I  
18:03:14 22 think you answered the question, so I'm asking  
18:03:17 23 you, who are those companies?

18:03:19 24 A. What's the word I want to use?

18:03:25 25 You guys, DP&L.

MIKE MOBLEY REPORTING 937-222-2259

18:03:38 1 Q. Okay. Who else?

18:03:39 2 A. That's it.

18:03:32 3 Q. All right. And what's your issue  
18:03:38 4 with DP&L?

18:03:39 5 A. The first one was, I tried to get  
18:03:43 6 gas back in the '70s, I believe, in one of the  
18:03:47 7 houses that my father had given me through the  
18:03:51 8 houses we got through HUD, and at that time,  
18:03:54 9 they were trying to go all electric, and it  
18:04:00 10 took my dad to doing -- to get a meter. That  
18:04:03 11 was the first instance.

18:04:04 12 And then through my life, I was  
18:04:06 13 just struggling with my alcoholism and -- and  
18:04:09 14 tight with money, I was shut off so many times.  
18:04:12 15 A few times it got pretty dangerous, so I felt  
18:04:14 16 bad about that situation. Then the last was  
18:04:21 17 the dealings with DP&L with my father.

18:04:27 18 Q. All right. So you've described,  
18:04:33 19 what I count, three separate situations where  
18:04:35 20 you feel like you've had sort of a negative  
18:04:37 21 experience with Dayton Power and Light, is that  
18:04:39 22 correct?

18:04:39 23 A. Correct.

18:04:40 24 Q. The first one was you said that  
18:04:43 25 you tried to get -- deal with them in the 1970s

MIKE MOBLEY REPORTING 937-222-2259

18:04:48 1 with your dad. Could you talk about that  
18:04:52 2 instance a little more so I can -- provide me a  
18:04:54 3 little more detail, if you don't mind.

18:04:56 4 A. Well, I mentioned that we  
18:04:57 5 purchased six HUD houses, and for my hard work,  
18:05:01 6 Dad gave me one of the houses, and that  
18:05:02 7 particular house, the meter was either taken  
18:05:07 8 out or stolen. After I remodeled the house, I  
18:05:11 9 just assumed we'd get a meter.

18:05:12 10 When I got done, I couldn't get  
18:05:15 11 one because it was some kind of ruling you had  
18:05:18 12 to go to all electric at that time, so  
18:05:24 13 that's --

18:05:24 14 Q. And DP&L, Dayton Power and Light,  
18:05:26 15 just to be clear, was supplying the power for  
18:05:29 16 the meter?

18:05:31 17 A. Yes. At that time, Dayton Power  
18:05:33 18 and Light was not only electric, but it was the  
18:05:36 19 gas.

18:05:36 20 Q. So for that particular case, we're  
18:05:39 21 talking about gas, correct?

18:05:41 22 A. Yes.

18:05:43 23 Q. Okay. And what was the result of  
18:05:44 24 that situation?

18:05:47 25 A. Dad made some phone calls to DP&L,

MIKE MOBLEY REPORTING 937-222-2259

18:05:52 1 and Dad had been nice enough to let them use  
18:05:56 2 part of the dump, and he owned some property  
18:06:00 3 adjacent to DP&L, and said if they graveled it  
18:06:04 4 and put a fence around it, they could use that  
18:06:07 5 to their leisure, and Dad just said, if you  
18:06:12 6 can't get us a meter over here, then move your  
18:06:16 7 vehicles.

18:06:16 8 Q. Um-hum. And so how did that make  
18:06:20 9 you feel?

18:06:23 10 A. In which way?

18:06:26 11 Q. I mean, after -- you know, you  
18:06:26 12 said that this may have impacted your feelings  
18:06:29 13 towards DP&L. I'm trying to figure out how --  
18:06:32 14 how they impacted your feelings.

18:06:34 15 As you can imagine, this may be  
18:06:36 16 important to my client, so how did that impact  
18:06:38 17 you?

18:06:38 18 A. Well, like I said, two ways. One  
18:06:40 19 way was that I was frustrated because the time  
18:06:43 20 we were living and -- and the reaction I got  
18:06:46 21 from whoever I talked to on the phone at that  
18:06:51 22 particular time, but relieved and proud of my  
18:06:53 23 dad that -- for he was able to have a hold on  
18:06:56 24 the situation.

18:06:57 25 Q. And I believe the second scenario

MIKE MOBLEY REPORTING 937-222-2259

18:07:03 1 you gave me was that due to your alcoholism, it  
18:07:09 2 sounds like DP&L, you said, had shut off your  
18:07:12 3 electricity multiple times, is that correct?

18:07:14 4 A. Correct.

18:07:16 5 Q. When did they shut off your  
18:07:22 6 electricity?

18:07:22 7 A. Several times. I -- I can't give  
18:07:26 8 you specific, but I do remember 1978 to be for  
18:07:31 9 sure.

18:07:35 10 Q. And was that for nonpayment?

18:07:37 11 A. Correct.

18:07:39 12 Q. And where were you living where  
18:07:43 13 that electricity was shut off in 1978?

18:07:47 14 A. Be -- I think it was 75 Anderson  
18:07:59 15 Street off of -- off of Wayne Avenue.

18:08:01 16 Q. Is that in Dayton?

18:08:03 17 A. Yes.

18:08:03 18 Q. And it sounds like subsequent to  
18:08:07 19 that or after that, DP&L has shut off your  
18:08:11 20 electricity as well?

18:08:12 21 A. Correct.

18:08:12 22 Q. And was that ballpark time in the  
18:08:17 23 '80s, '90s, 2000s? When did -- when did these  
18:08:20 24 instances occur?

18:08:20 25 A. '70s and '80s.

MIKE MOBLEY REPORTING 937-222-2259

18:08:34 1 Q. Approximately how many times did  
18:08:36 2 that happen?

18:08:38 3 A. When I couldn't pay it.

18:08:31 4 Q. Well, sir, your memory has been  
18:08:33 5 excellent over the past few days, so I'm just  
18:08:35 6 going to assume that if your electricity is cut  
18:08:37 7 off, you're going to know when that was, so  
18:08:40 8 I'll ask again.

18:08:41 9 In the '80s, '90s about how --  
18:08:44 10 '70s, '80s and '90s, approximately how many  
18:08:45 11 times was your electricity shut off by Dayton  
18:08:48 12 Power and Light?

18:08:50 13 A. Well, as you mentioned, I been on  
18:08:51 14 this seat for nine hours and I'm tired and I  
18:08:54 15 well can't think as well as probably I should,  
18:08:56 16 but I'll do as best as I can for you.

18:09:01 17 Q. To the -- to the extent that you  
18:09:02 18 can.

18:09:17 19 A. 1970.

18:09:20 20 Q. Okay.

18:09:28 21 A. '74. I mentioned '78 already.

18:09:40 22 Q. Okay.

18:09:42 23 A. And around the time frame of '81  
18:09:46 24 and '82.

18:09:50 25 Q. All right. So I count at least

MIKE MOBLEY REPORTING 937-222-2259

18:09:58 1 five separate years where your electricity was  
18:09:59 2 cut off by DP&L because your bill wasn't paid,  
18:10:02 3 correct?

18:10:03 4 MR. ROMINE: Objection.

18:10:04 5 Mischaracterizes his testimony.

18:10:06 6 THE WITNESS: Correct.

18:10:06 7 BY MR. SHARETT:

18:10:06 8 Q. I'm sorry?

18:10:06 9 A. Correct.

18:10:07 10 Q. All right. And when -- you know,  
18:10:11 11 when DP&L shut off your electricity, how did  
18:10:13 12 that make you feel?

18:10:17 13 A. Obviously I blamed myself because  
18:10:20 14 I didn't have accurate funds for whatever  
18:10:22 15 reason, but I felt there was no wiggle room on  
18:10:28 16 negotiation for whatever -- for whatever  
18:10:31 17 reason.

18:10:31 18 Q. Just kind of feel like DP&L didn't  
18:10:38 19 work with you enough?

18:10:38 20 A. Correct.

18:10:38 21 Q. All right. And then the last  
18:10:40 22 instance you gave, you said that dealt with  
18:10:43 23 DP&L and your father, did I get that right?

18:10:46 24 A. Correct.

18:10:47 25 Q. Talk to me about that. What is

MIKE MOBLEY REPORTING 937-222-2259

18:10:49 1 that about?

18:10:51 2 A. Most -- mostly on parking

18:10:57 3 instance -- instant -- parking things where

18:11:00 4 they were parking vehicles. That was the

18:11:08 5 main -- pretty much the main issue.

18:11:10 6 Q. I'm sorry. That doesn't really

18:11:14 7 tell me what that means. Could you kind of

18:11:17 8 expand upon that? Parking vehicles, what do

18:11:19 9 you mean by that?

18:11:20 10 A. Well, they were dumping the

18:11:23 11 long -- longer trucks with maybe big spools on

18:11:25 12 it, and it was between the pit that was

18:11:27 13 being -- that -- what do you call it, the sand

18:11:28 14 and gravel sticking out and the dump, and

18:11:29 15 sometimes they would block the entrance which

18:11:43 16 would lead to the site in which they needed to

18:11:47 17 go up and down the road to get -- get the sand

18:12:00 18 and gravel, and it angered him, you know, if --

18:11:55 19 if they couldn't get down there.

18:11:58 20 Q. You gave a deposition, I believe,

18:12:01 21 last year where -- when you were asked a lot of

18:12:04 22 questions about Dayton Power and Light,

18:12:06 23 correct?

18:12:07 24 A. Last year?

18:12:09 25 Q. 2012.

MIKE MOBLEY REPORTING 937-222-2259

18:12:10 1 A. Oh, 2012. And what was the

18:12:13 2 question again?

18:12:14 3 Q. Did you -- in the prior deposition

18:12:16 4 that you took, did you answer questions

18:12:19 5 regarding your knowledge about Dayton Power and

18:12:22 6 Light?

18:12:24 7 A. I don't recall.

18:12:25 8 Q. You don't remember?

18:12:27 9 A. No.

18:12:28 10 Q. Let me ask you a different

18:12:30 11 question. Do you think that -- do you think

18:12:33 12 that you could be fair when talking about

18:12:37 13 DP&L's involvement in this lawsuit given your

18:12:41 14 previous history that we've just discussed

18:12:44 15 regarding what happened with the HUD houses and

18:12:47 16 what happened with the termination of your

18:12:49 17 electricity?

18:12:49 18 A. Yes, I could.

18:12:52 19 Q. How can you do that?

18:12:56 20 A. Being sober as long as I am now,

18:12:59 21 that one of the ways of staying sober is live

18:13:02 22 and let live. There's a lot of variability --

18:13:11 23 or variables on my process of staying sober,

18:13:15 24 one which is -- one of the sayings is like

18:13:23 25 animosity will get you drunk again, something

MIKE MOBLEY REPORTING 937-222-2259

18:13:28 1 like that, but I can't remember, but that's --

18:13:31 2 that's the -- that's the main reason I'm trying

18:13:33 3 to take what was my -- my fault and what --

18:13:40 4 other people's fault and forget about it.

18:13:45 5 Q. And you think you can -- you can

18:13:47 6 do that despite the fact you had -- you had

18:13:51 7 some of those ill feelings about Dayton Power

18:13:53 8 and Light given your previous experiences with

18:13:56 9 them?

18:13:57 10 MR. ROMINE: Asked and answered.

18:13:58 11 THE WITNESS: Yes, sir.

18:13:59 12 MR. SHARETT: Okay. I have no

18:14:00 13 further questions.

18:14:02 14 MR. ROMINE: Was there any other

18:14:03 15 lawyer on the phone that had questions for Mr.

18:14:07 16 Grillot?

18:14:07 17 MS. HUNT: Ann Hunt for Day

18:14:13 18 International. No, I have no questions at this

18:14:14 19 time. Thank you.

18:14:20 20 MR. ROMINE: Anyone else on the

18:14:20 21 phone? Does anyone else here in the room have any

18:14:25 22 questions for Mr. Grillot? The deposition is

18:14:28 23 concluded.

18:14:28 24 (Thereupon, an off-the-record

18:14:28 25 discussion was had.)

MIKE MOBLEY REPORTING 937-222-2259

18:14:33 1 MR. HAUGHEY: I had a brief

18:14:34 2 conversation with David here about the photographs

18:14:40 3 that were marked at Mr. Grillot's 2012 deposition.

18:14:45 4 I forget the exhibit numbers, but they're the

18:14:49 5 photographs of the buildings that I took him

18:14:50 6 through.

18:14:50 7 I did not mark them as separate

18:14:53 8 deposition exhibits in this case, but I think we

18:14:55 9 have an agreement that those exhibits in the prior

18:14:59 10 case can be used here.

18:14:59 11 MR. ROMINE: That could be -- that

18:15:04 12 could be deemed as exhibits in this case, too.

18:15:09 13 MR. HAUGHEY: Yeah, the -- just the

18:15:09 14 photographs. Does anybody got a problem with

18:15:13 15 that? If so, I want to hear it, just so I know

18:15:17 16 whether or not I want to mark them here and ask

18:15:19 17 the witness to simply testify to them.

18:15:22 18 If there's any issues with it, we

18:15:23 19 might as well get it out.

18:15:25 20 MR. COUGHLIN: You're only asking

18:15:26 21 about using the photographs?

18:15:28 22 MR. HAUGHEY: Correct.

18:15:33 23 MR. COUGHLIN: No objection.

18:15:34 24 MR. EDDY: None. We have that on the

18:15:35 25 record then. And I would simply say none of us

MIKE MOBLEY REPORTING 937-222-2259

18:16:42 1 here represent you, Mr. Grillo, we appreciate  
 18:16:43 2 your patience here with all of us. And I'll  
 18:16:48 3 simply say you have the right to read your  
 18:16:50 4 transcript.  
 18:16:52 5 I don't represent you, none of the  
 18:16:54 6 lawyers in here represent you, as I understand it,  
 18:16:59 7 but you're allowed to read your transcript to make  
 18:17:00 8 sure that the court reporter accurately took down  
 18:17:02 9 your responses to the questions, or to make any  
 18:17:06 10 corrections to that. You can do that, to read it  
 18:17:11 11 and -- or you can waive that right.  
 18:17:12 12 If you want to read it and you don't  
 18:17:13 13 read it after a certain time, it's automatically  
 18:17:14 14 waived, I believe, under the rules, but you'll  
 18:17:22 15 have to tell the court reporter that on your own,  
 18:17:23 16 what you want to do or not do.  
 18:17:25 17 THE WITNESS: Okay. Thank you.  
 18:17:28 18 MR. HAUGHEY: Do we have an agreement  
 18:17:31 19 or stipulation as to the amount of time that he  
 18:17:32 20 will have to review?  
 18:17:34 21 MR. ROMINE: The default is 30 days.  
 18:17:36 22 MR. HAUGHEY: Right, I understand the  
 18:17:37 23 default, yeah. So we're going to go with the  
 18:17:37 24 default?  
 18:17:37 25 MR. ROMINE: Yeah.

18:17:38 1 MR. HAUGHEY: Okay. That's fine.  
 18:17:42 2 MR. EDDY: You need to let the court  
 18:17:42 3 reporter know what you want to do.  
 18:17:42 4 THE WITNESS: Okay. I would like a  
 18:17:42 5 copy.  
 18:17:42 6 THE COURT REPORTER: He'll have to  
 18:17:47 7 come to my office and read it.  
 8 THE WITNESS: Pardon me?  
 9 THE COURT REPORTER: You'll have to  
 10 come to my office and read it. We'll send you a  
 11 letter.  
 12 (Thereupon, an off-the-record  
 13 discussion was had.)  
 18:18:21 14 THE WITNESS: I don't want to read  
 18:18:23 15 it.  
 18:18:23 16 (Thereupon, the deposition was  
 18:18:23 17 concluded at 6:18 p.m.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 STATE OF OHIO)  
 2 COUNTY OF MONTGOMERY) SS: CERTIFICATE  
 3 I, Barbara A. Nikolai, a Notary  
 4 Public within and for the State of Ohio, duly  
 5 commissioned and qualified,  
 6 DO HEREBY CERTIFY that the  
 7 above-named EDWARD GRILLOT, was by me first duly  
 8 sworn to testify the truth, the whole truth and  
 9 nothing but the truth.  
 10 Said testimony was reduced to  
 11 writing by me stenographically in the presence  
 12 of the witness and thereafter reduced to  
 13 typewriting.  
 14 I FURTHER CERTIFY that I am not a  
 15 relative or Attorney of either party, in any  
 16 manner interested in the event of this action,  
 17 nor am I, or the court reporting firm with which  
 18 I am affiliated, under a contract as defined in  
 19 Civil Rule 28(D).  
 20  
 21  
 22  
 23  
 24  
 25

1 IN WITNESS WHEREOF, I have hereunto set  
 2 my hand and seal of office at Dayton, Ohio, on  
 3 this 30th day of December, 2013.  
 4  
 5  
 6 BARBARA A. NIKOLAI  
 7 NOTARY PUBLIC, STATE OF OHIO  
 8 My commission expires 12-13-2018  
 9  
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 14  
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 19  
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 22  
 23  
 24  
 25



The Sherwin-Williams Company  
101 Prospect Avenue, N.W.  
Cleveland, Ohio 44115-1075

August 23, 1994

Kurt Kollar, Esq.  
Ohio Environmental Protection Agency  
Southwest District Office  
Division of Emergency and Remedial Response  
40 South Main Street  
Dayton, OH 45402

Re: Request for Information for the North Sanitary Landfill  
Valleycrest, Dayton, Ohio

Dear Mr. Kollar:

This letter is in response to your Request for Information sent to The Sherwin-Williams' location at 2390 Arbor Boulevard in Dayton, regarding the above-captioned matter. I understand that this request is directed to this location. Sherwin-Williams has conducted a detailed review relating to this store to respond to the questions. Without admitting to any liabilities or waiving any rights or privileges, Sherwin-Williams responds as follows:

1. a) The Sherwin-Williams' facility at 2390 Arbor Boulevard in Dayton is a commercial store which sells architectural, chemical coating and industrial paints. The store tints and blends paints.

- b) No manufacturing of paint is done at this facility.
- c) This facility generates 55 to 100 gallons a month of used solvents. These solvents are sent out to be reclaimed for reuse. The store's trash consists of solid waste.
- d) This facility disposes of solid waste through local waste haulers. Small amounts of solvents are sent to be reclaimed.
- e) This store has a SIC number of 5198.

2. This facility has used the following services for solvent: Safety Kleen (1993-1991); Chemical Waste Management (1990-1989); Hazmat Environment (1989-1986); Solvent Resource Recovery Company (1983-1982). For solid waste, Blaylock and Koogler Suburban Waste Haulers have been used. The person responsible for making the arrangement for the hauling of waste since 1984 is the warehouse manager, Walter Lakes. No information was found that indicates this facility, sent any material to the site.



Kurt Kollar, Esq.  
August 23, 1994  
Page - 2 -

3. This facility has found no information that it ever made any arrangements or knew of any disposal of waste materials at the North Sanitary Landfill. It has not discovered any information that had any transaction with Peerless Transportation Company.

4. Based on the above response, no response is required.

5. Based on the above response, no response is required.

6. Based on the above response, no response is required.

7. Based on the above response, no response is required.

8. In response to this question, Sherwin-Williams has attached a list of its liability insurance policies.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald J. McConnell". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Donald J. McConnell  
Environmental Counsel  
(216) 566-3741

DJM:md

Enclosure



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

\* \* \*

HOBART CORPORATION, et al.,

Plaintiffs,

vs.

CASE NO. 3:13-cv-00115-WHR

THE DAYTON POWER AND

LIGHT COMPANY, et al.,

Defendants.

\* \* \*

Deposition of MICHAEL A. WENDLING,  
Witness herein, called by the Plaintiffs for  
direct examination pursuant to the Rules of Civil  
Procedure, taken before me, Michelle A. Elam, a  
Notary Public in and for the State of Ohio, at the  
offices of Sebaly, Shillito + Dyer, 1900 Kettering  
Tower, 40 North Main Street, Dayton, Ohio, on  
Friday, the 23rd day of April, 2014, at 9:33 a.m.

\* \* \*

1	EXAMINATIONS CONDUCTED	PAGE	1	identification.)
2	BY MR. SILVER:	13	2	(Thereupon, Wendling Exhibit Number 125
3	BY MR. HAUGHEY:	101	3	3 was marked for purposes of
4	BY MR. EDDY:	116	4	identification.)
5	BY MS. KNOWLTON:	139	5	
6	BY MR. THUMANN:	176	6	
7	BY MR. LEWIS:	193	7	
8	BY MR. NES:	197	8	
9	BY MR. HARBECK:	205	9	
10	BY MR. MERRILL:	235	10	
11	BY MR. SLAUGHTER:	240	11	
12	BY MR. RUDLOFF:	241	12	
13	BY MR. SILVER:	241	13	
14	BY MR. EDDY:	253	14	
15	BY MR. THUMANN:	270	15	
16	BY MS. KNOWLTON:	273	16	
17	BY MR. HAUGHEY:	274	17	
18	BY MR. SILVER:	279	18	
19	BY MR. HARBECK:	281	19	
20	EXHIBITS MARKED	PAGE	20	
21	(Thereupon, Wendling Exhibit Number 70		21	
22	1 was marked for purposes of		22	
23	identification.)		23	
24	(Thereupon, Wendling Exhibit Number 89		24	
25	2 was marked for purposes of		25	
Page 2			Page 3	
1	APPEARANCES:		1	APPEARANCES: (Cont'd.)
2	On behalf of the Plaintiffs.		2	On behalf of the Defendant Sherwin-Williams
3	Langsam Stevens Silver & Hollaender			Company:
4	By Larry Silver		3	
	Attorney at Law			Gallagher Sharp
5	1818 Market Street, Suite 3400		4	
	Philadelphia, Pennsylvania 19103			By: Robert H. Eddy
6	215-732-3255		5	Attorney at Law
7	On behalf of the Defendant Cox Media Group			420 Madison Avenue, Suite 1250
	Ohio, Inc.:		6	Toledo, Ohio 43604
8				419-241-4863
	Faruki Ireland & Cox, P.L.L.		7	
9				On behalf of the Defendant Waste Management of
	By: Erin E. Rhinehart		8	Ohio, Inc.:
10	Attorney at Law		9	Quarles & Brady
	500 Courthouse Plaza, SW		10	By: William H. Harbeck
11	10 North Ludlow Street			Attorney at Law
	Dayton, Ohio 45402		11	411 East Wisconsin Avenue
12	937-227-3719			Milwaukee, Wisconsin 53202-4497
13	On behalf of the Defendant Franklin Iron &		12	414-277-5000
	Metal Corporation		13	On behalf of the Defendant Kimberly Clark
14				Corporation:
	Crehan & Thumann, LLC		14	
15				Foley Lardner LLP
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3 (Pages 6 to 9)

Mike Mobley Reporting  
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1	ALSO PRESENT:	1	MR. SILVER: We're ready to go on the
2	Elizabeth Theobald Irvin, Coca-Cola	2	record. I'm Larry Silver. I'm representing the
3	Refreshments USA, Inc.:	3	Plaintiffs in the litigation.
4	* * *	4	MS. KNOWLTON: I'm Leah Knowlton. I
5		5	represent Coca-Cola.
6		6	MS. IRVIN: I'm Elizabeth Irvin with
7		7	Coca-Cola Company.
8		8	MR. RUDLOFF: Drew Rudloff for the
9		9	Dayton Board of Education.
10		10	MS. RHINEHART: Erin Rhinehart with
11		11	Faruki, Ireland & Cox on behalf of Cox Media Group
12		12	Ohio.
13		13	MR. EDDY: Robert Eddy on behalf of
14		14	the Sherwin-Williams Company.
15		15	MR. HARBECK: Bill Harbeck on behalf
16		16	of Waste Management of Ohio.
17		17	MR. MERRILL: Frank Merrill on behalf
18		18	of the Dayton Power and Light Company.
19		19	MR. ANDREASEN: John Andreasen on
20		20	behalf of ConAgra Grocery Products Company.
21		21	MR. COLLIER: Chip Collier of
22		22	Benesch, Friedlander on behalf of L.M. Berry +
23		23	Company.
24		24	MS. SLACK: Sarah Slack on behalf of
25		25	Kimberly Clark Corporation.
Page 10		Page 11	
1	MR. McCALL: Duke McCall on behalf of	1	DIRECT EXAMINATION
2	Reynolds & Reynolds Company.	2	BY MR. SILVER:
3	MR. STINSON: Peter Stinson on behalf	3	<b>Q. Mike, can you state your full name</b>
4	of PPG Industries, Inc.	4	<b>and address for the record, please?</b>
5	MR. HAUGHEY: Steve Haughey on behalf	5	A. Michael A. Wendling. My
6	of --	6	address -- permanent address is 260 Corkle
7	UNIDENTIFIED SPEAKER: Wait. I	7	Lane, Franklin, North Carolina, 28734.
8	couldn't hear the last couple. Could you speak	8	<b>Q. How are you doing this morning,</b>
9	up?	9	<b>Mike?</b>
10	MR. STINSON: Peter Stinson.	10	A. Quite well. Okay. I'm doing
11	MR. SILVER: For PPG.	11	okay.
12	MR. NES: Brad Ness. Pepsi.	12	<b>Q. And how are you feeling? Do you</b>
13	MR. HAUGHEY: I've got two more.	13	<b>feel alert today?</b>
14	Sorry. Steve Haughey. Flowserve Corporation,	14	A. I feel alert. Uh-huh.
15	University of Dayton, and Standard Register	15	<b>Q. I'm just wondering, are you on any</b>
16	Corporation.	16	<b>medication?</b>
17	MR. NES: Brad Nes. Still Pepsi.	17	A. I take a mild depressant.
18	MR. SLAUGHTER: Jimmy Slaughter,	18	<b>Q. Antidepressant?</b>
19	Beveridge & Diamond for Ohio Bell.	19	A. Yes. Uh-huh.
20	MR. SILVER: All right. I think	20	<b>Q. Once a day?</b>
21	we're ready to swear the witness.	21	A. Once a day. Yep.
22	MICHAEL A. WENDLING	22	<b>Q. And how do you feel about your</b>
23	of lawful age, Witness herein, having been first	23	<b>memory? Do you feel it's -- do you have a good</b>
24	duly cautioned and sworn, as hereinafter	24	<b>memory?</b>
25	certified, was examined and said as follows:	25	A. At my age, probably. You know,
Page 12		Page 13	

4 (Pages 10 to 13)

1 fairly well.  
 2 Q. Okay. Now, do you remember that  
 3 we had -- we took your deposition about --  
 4 close to two years ago in Dayton?  
 5 A. Correct.  
 6 Q. Do you remember that?  
 7 A. Yes. Uh-huh.  
 8 Q. Well, I want to let you know that  
 9 this is a related to that deposition. I mean,  
 10 in the prior deposition, I asked you about a  
 11 number of companies and the relationship to the  
 12 South Dayton Dump & Landfill. And many of  
 13 those companies were not present at that  
 14 deposition. So the purpose of this deposition  
 15 is to give those parties an opportunity to hear  
 16 what you have to say and give them a chance to  
 17 ask questions.  
 18 And do you remember that I  
 19 represent three companies, Hobart, TRW, and  
 20 NCR?  
 21 A. Right.  
 22 Q. And you've had depositions taken  
 23 in other matters prior to the one that was in  
 24 Dayton a couple years ago with me, right?  
 25 A. Yes.

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1 questions so that may determine how long this  
 2 whole thing takes. But I'm telling you that  
 3 because if you do need breaks along the way,  
 4 let us know. And we'll take some anyway and  
 5 then do a lunch break and we'll see how far we  
 6 get. So are you ready to go?  
 7 A. Yes.  
 8 MS. KAUFMAN: Larry, I'm so sorry --  
 9 it's Bonni Kauffman -- to interrupt. I just had a  
 10 question because I haven't participated in one of  
 11 these depositions before.  
 12 What is the procedure? Do you do the  
 13 questioning first and then each defendant has an  
 14 opportunity?  
 15 MR. SILVER: Yeah, that's the way we  
 16 plan it.  
 17 MS. KAUFMAN: Okay.  
 18 Q. All right, Mike. Tell me a little  
 19 bit -- well, let's start with your date of  
 20 birth? When were you born?  
 21 A. 10-3-45.  
 22 Q. And that would make you  
 23 sixty-nine --  
 24 A. Sixty-nine.  
 25 Q. -- years young?

Page 16

1 Q. So you know the general way this  
 2 works?  
 3 A. Uh-huh.  
 4 Q. Question-and-answer period?  
 5 A. (Witness nods head up and down.)  
 6 Q. Okay. One of the things that I  
 7 just want to remind you again, which is really  
 8 important, because you see the court reporter,  
 9 Michelle, over here on your left, she's pretty  
 10 much looking at her screen. She's not looking  
 11 at you. So it's important -- we can have her  
 12 look at you, too; but it's always important  
 13 that you answer questions audibly, out loud, so  
 14 she can get everything down.  
 15 A. (Witness nods head up and down.)  
 16 Q. Can you do that, Mike?  
 17 A. Yes.  
 18 Q. Okay. Thank you. Good start.  
 19 And also, let me know if you need a break at  
 20 any time. I don't anticipate that the  
 21 deposition is going to last more than a day. I  
 22 don't have too many questions to ask you. I'm  
 23 going to do a little background like we did  
 24 last time, but everyone in the room and on the  
 25 phone has the opportunity to ask you follow-up

Page 15

1 A. Right.  
 2 Q. Going which direction?  
 3 A. I like to reverse. But going up.  
 4 Q. I wonder if you've ever heard of a  
 5 family name called Grillot, G R I L L O T?  
 6 A. That's my mother's maiden name.  
 7 Q. Okay. What's your mother's --  
 8 what was your mother's name?  
 9 A. Margie.  
 10 Q. And -- so her full name was  
 11 Margaret -- Margie Grillot?  
 12 A. Margie Grillot. Uh-huh.  
 13 Q. At least her maiden name?  
 14 A. Yes.  
 15 Q. That was her full maiden name.  
 16 A. Right. Right.  
 17 Q. And did she have any brothers?  
 18 A. There's fourteen in the family.  
 19 So, yeah, she had quite a few brothers.  
 20 Q. Did she have a brother named  
 21 Cyril?  
 22 A. Cyril. Right.  
 23 Q. Did she have a -- he was -- Cyril  
 24 was your uncle?  
 25 A. Cyril was my uncle. Right.

Page 17

5 (Pages 14 to 17)

1 Q. Did she have a brother named  
2 Kenny?  
3 A. Kenny. My uncle.  
4 Q. And how about Alcine?  
5 A. Alcine. My uncle.  
6 Q. How about Cletus?  
7 A. Cletus, uncle.  
8 Q. Do you know an Edward Grillot?  
9 A. Edward Grillot, cousin.  
10 Q. And who is Edward Grillot's  
11 father?  
12 A. Cyril.  
13 Q. And did you know a David Grillot?  
14 A. Cousin.  
15 Q. Another cousin?  
16 A. Yes.  
17 Q. And who was his father?  
18 A. Alcine.  
19 Q. Have you ever heard of a location  
20 called the South Dayton Dump & Landfill?  
21 A. Yes.  
22 Q. What was that?  
23 A. Well, it was a landfill to where  
24 people and companies throughout the Dayton area  
25 would bring things there to dump.

Page 18

1 money and this type of stuff. Different type  
2 of products that might come in there that Kenny  
3 would call and say come pick up this or that  
4 and work on the dump.  
5 Q. Just as an aside, have you ever  
6 heard of a dump called the Broadway Dump?  
7 A. Well, it's the same dump.  
8 Q. Same as what?  
9 A. South Dayton. People called it  
10 different names.  
11 Q. Can you think of any other names  
12 that people called it?  
13 A. No.  
14 Q. So you have South Dayton Dump and  
15 you have Broadway Dump?  
16 A. Yes.  
17 Q. One and the same?  
18 A. Yes.  
19 Q. What did the family call it, the  
20 Grillot family?  
21 A. I would say more South Dayton  
22 Dump.  
23 Q. Did you ever see anything in  
24 writing with that name on it?  
25 A. I can't say I have.

Page 20

1 Q. And did your family have any  
2 relationship to the South Dayton Dump &  
3 Landfill?  
4 A. In which way do you mean?  
5 Q. Did your family have any  
6 connection to the South Dayton Dump & Landfill?  
7 A. On the Wendling or the Grillot  
8 side?  
9 Q. The Grillot side.  
10 A. Oh, absolutely. They owned it,  
11 ran it. Uh-huh.  
12 Q. And who -- who owned it, if you  
13 know?  
14 A. Actually, Cyril owned it.  
15 Q. Did he own it by himself?  
16 A. I believe he did.  
17 Q. Okay. And who ran it?  
18 A. Alcine and Kenny.  
19 Q. Had you ever been to the South  
20 Dayton Dump & Landfill?  
21 A. Many of times.  
22 Q. Why's that?  
23 A. Well, because my uncles owned it  
24 and I would go down there when I was a kid and  
25 search through different debris looking for

Page 19

1 Q. Not that you can recall?  
2 A. No.  
3 Q. So you mentioned that you went to  
4 the dump as a kid to basically pick the  
5 garbage? Is that what you did?  
6 A. Well, not garbage. They didn't  
7 allow garbage, but pick through items that was  
8 throwed on the dump.  
9 Q. When you say they didn't allow  
10 garbage, what do you mean by that?  
11 A. Well, household garbage.  
12 Q. Household garbage didn't come into  
13 the dump?  
14 A. No.  
15 Q. What kind of materials came into  
16 the dump, generally speaking?  
17 A. Generally, probably a lot of  
18 people who live in Dayton dump -- like if they  
19 was cleaning out a house or Goodwill dump --  
20 you know, they would dump things there or just  
21 yard clean up or -- plus a lot of factory type  
22 of dumping.  
23 Q. Factory dumping?  
24 A. Yes.  
25 Q. Can you give me some examples of

Page 21

6 (Pages 18 to 21)

1 the factory dumping?  
 2 A. That I can recall, yeah.  
 3 Q. Sure.  
 4 A. Dayton Power and Light.  
 5 Sherwin-Williams. Coca-Cola. Pepsi Cola,  
 6 Walther Corporation, General Motors. And  
 7 mostly I would think -- Delco Products at the  
 8 brake plant. Reynolds & Reynolds. Right now,  
 9 that's -- that's on the top of my head.  
 10 Q. That's okay. What I'm going to do  
 11 is come back to those later and ask you about a  
 12 few other companies as well. So keep all of  
 13 that in mind.  
 14 I want to talk to you a little bit  
 15 more about what time you spent at the dump.  
 16 About how old were you, if you recall, when you  
 17 first started going to the dump to pick through  
 18 the waste? I'm not going to use the word  
 19 garbage anymore.  
 20 A. Okay. Very young. Ten. In that  
 21 neighborhood.  
 22 Q. Perhaps even younger?  
 23 A. It could be, but I would say  
 24 eight, nine, ten, around in there.  
 25 Q. And at that time, during that time

Page 22

1 to -- just to scrounge, really, if you want to  
 2 call it like that.  
 3 Q. What was the word you used?  
 4 A. Well, just sort of --  
 5 Q. Scrounge?  
 6 A. -- root, whatever might be there.  
 7 Q. So your mom and dad would go with  
 8 you on occasion?  
 9 A. Yeah. And sisters and brothers.  
 10 And then a lot of times, Kenny would call me  
 11 and say hey, I got some -- well, we got some  
 12 ice cream. And they would just freshly dump it  
 13 and he would call us as soon as it gets there  
 14 and we'd go get it.  
 15 Q. Someone would dump fresh ice  
 16 cream?  
 17 A. Yeah.  
 18 Q. You'd have to get there pretty  
 19 quick in the summertime.  
 20 A. Well, they would call us pretty  
 21 quick. Really, I mean, it would come in maybe  
 22 a two- or three-gallon round container.  
 23 Q. Uh-huh.  
 24 A. So most of it would be like that,  
 25 not in individually wrapped things.

Page 24

1 period, how frequently -- okay. Well, let me  
 2 just say you were born in 1945. So you were  
 3 eight in 1953 and ten in 1955. So that's a  
 4 long time ago.  
 5 A. It's a long time ago.  
 6 Q. Those are the sputnik days.  
 7 A. I know.  
 8 Q. So tell me a little bit during  
 9 that period of time, if you can recall, how  
 10 frequently you went to the dump as an eight,  
 11 nine, ten year old.  
 12 MS. KAUFMAN: I'm sorry. I couldn't  
 13 hear the first part of the question. You faded  
 14 off.  
 15 MR. SILVER: I was asking him how  
 16 frequently he went to the dump during his --  
 17 during his time as an eight, nine, or ten year  
 18 old?  
 19 Q. Go ahead, Mike.  
 20 A. A lot of times it was like on  
 21 Saturday. My Uncle Cyril would come and pick  
 22 me up and take me down there to do maybe small  
 23 chores or whatever. And then a lot of times we  
 24 just -- well, my mother or my dad at the time,  
 25 we would just go there on a regular basis just

Page 23

1 Q. Sure. Sure.  
 2 A. Uh-huh.  
 3 Q. Now, I'm just curious. Are any of  
 4 your sisters or brothers still alive?  
 5 A. Let's see. I have one, two, three  
 6 sisters that are still alive.  
 7 Q. Uh-huh. And what about brothers?  
 8 A. There's so many of us. Two  
 9 brothers alive.  
 10 Q. And you mentioned that you would  
 11 go -- that you'd go down there on Saturdays  
 12 with your Uncle Cyril, as well as with your  
 13 parents?  
 14 A. Oh, yeah.  
 15 Q. Go ahead.  
 16 A. Yes.  
 17 Q. You were going to say something?  
 18 A. No.  
 19 Q. And then what about weekdays after  
 20 school?  
 21 A. Well, we were talking about when I  
 22 was very young.  
 23 Q. Let's stick with that period.  
 24 A. When I was very young. That's  
 25 before school. Other than -- mostly Saturdays.

Page 25

7 (Pages 22 to 25)

1       **Q. Uh-huh. Uh-huh. During that**  
 2 **period of time when you were eight to ten? Is**  
 3 **that what we're talking about now?**  
 4       A. Yes. Uh-huh.  
 5       **Q. Did your -- did the amount of time**  
 6 **or the frequency with which when you went to**  
 7 **the dump change then after you turned ten?**  
 8       A. Well, yeah, whenever I got up to  
 9 fifteen years old. Then it would be much more  
 10 frequent.  
 11       **Q. How frequent were you going to the**  
 12 **dump if you can recall when you were fifteen**  
 13 **years old?**  
 14       A. Well, when I wasn't in school,  
 15 I -- well, it would be a lot of times after  
 16 school I would go. I can't tell you how many  
 17 days a week but frequent.  
 18       **Q. Uh-huh. Also on Saturday?**  
 19       A. Oh, absolutely Saturday. That was  
 20 definitely.  
 21       **Q. That was your big day at the dump?**  
 22       A. That was a big day at the dump.  
 23       **Q. How many hours did you spend**  
 24 **there?**  
 25       A. Oh, I don't know, four or five,

Page 26

1       A. Well, just like when they come  
 2 pick up ice cream, I just remember that. And  
 3 the key is something well known, that they was  
 4 allowed to come in after-hours, weekends or  
 5 whatever because of whatever their operation  
 6 was.  
 7       **Q. Both of those companies were**  
 8 **allowed to come in after-hours on weekends?**  
 9       A. Right.  
 10       **Q. Let's talk about, you know, when**  
 11 **you started getting on towards fifteen, between**  
 12 **ages eleven and fifteen.**  
 13       **At what point do you remember**  
 14 **starting to come to the dump more frequently?**  
 15       A. At that age.  
 16       **Q. At which age?**  
 17       A. Oh, around fifteen, fourteen.  
 18       **Q. Somewhere in there?**  
 19       A. Uh-huh.  
 20       **Q. And then how long did your -- how**  
 21 **long did the period of time continue while you**  
 22 **were coming to the dump more frequently,**  
 23 **Saturdays, weekdays after school?**  
 24       A. You mean as far as my age goes?  
 25       **Q. Yeah. Or where you were in**

Page 28

1 something like that.  
 2       **Q. Was the dump closed on Sunday?**  
 3       A. Closed on Sunday. Right.  
 4       **Q. Was the dump gated at this period**  
 5 **of time?**  
 6       A. The dump was gated. Right.  
 7       **Q. With a lock on the gate?**  
 8       A. Yes.  
 9       **Q. Just as an aside, did any**  
 10 **companies have -- if you know, did any**  
 11 **companies have a key to the lock at the dump?**  
 12       A. Two companies that I know of  
 13 that -- well, I know DP&L had a key to the  
 14 gate. And Franklin Iron & Metal.  
 15       **Q. Franklin Iron & Metal also had a**  
 16 **key to the gate?**  
 17       A. Uh-huh.  
 18       **Q. How is it that you remember that**  
 19 **those companies had a key to the gate?**  
 20       A. Well, it's just something I  
 21 just -- that's just a thing that I do remember.  
 22 I can't say why.  
 23       **Q. Why you remember?**  
 24       A. Huh?  
 25       **Q. You can't say why you remember?**

Page 27

1 **school. Whatever you can remember dates.**  
 2       A. Probably all the way up to --  
 3 well, twenty-two, twenty-three.  
 4       **Q. So twenty-two, twenty-three, that**  
 5 **would put you at nineteen --**  
 6       A. Twenty. Right around that age.  
 7       **Q. 1965, 1967?**  
 8       A. (Witness nods head up and down.)  
 9       **Q. Didn't you at some point start**  
 10 **working -- and I'm remembering from the last**  
 11 **deposition -- start working at a grocery store**  
 12 **at some point?**  
 13       A. Right.  
 14       **Q. Was it called Federal?**  
 15       A. Liberal Supermarket.  
 16       **Q. When did you start working at**  
 17 **Liberal?**  
 18       A. Let see. I turned sixty-five --  
 19 '61 or '2. Right as I turned sixteen.  
 20       **Q. That sounds about right, '61 or**  
 21 **'62?**  
 22       A. Yeah. 1961. Uh-huh.  
 23       **Q. Were you still in high school when**  
 24 **you started working at Liberal?**  
 25       A. Yes.

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8 (Pages 26 to 29)



1       **Q. What year did you finish high**  
2 **school?**  
3       A. '65.  
4       **Q. What were your hours? They may**  
5 **have changed, but what were your hours at**  
6 **Liberal?**  
7       A. I was pretty much thirty hours a  
8 week starting out at -- yeah.  
9       **Q. Thirty hours a week?**  
10      A. Yeah.  
11      **Q. Did that include Saturdays?**  
12      A. Some.  
13      **Q. While you were working at Liberal**  
14 **and in high school, did you also still go to**  
15 **the dump on Saturdays?**  
16      A. Oh, definitely. Right. And after  
17 school.  
18      **Q. How did you manage to get all this**  
19 **fit in during the time you were working at**  
20 **Liberal?**  
21      A. Well, Saturday and a lot of it was  
22 after school.  
23      **Q. A lot of what was -- going to the**  
24 **dump?**  
25      A. Going to the dump.

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1       A. Well, that was later on. Not at  
2 the very first. No. But I was a box boy or I  
3 bagged groceries. So that was -- you know,  
4 that could have been fifteen hours a week or  
5 something like that.  
6       **Q. Okay. So there was part-time at**  
7 **Liberal in the evenings?**  
8       A. Yes.  
9       **Q. At the beginning?**  
10      A. Yes.  
11      **Q. Going to high school at the**  
12 **same --**  
13      A. Yes.  
14      **Q. -- time?**  
15      A. Yes.  
16      **Q. And time to go to the dump after**  
17 **school and on Saturdays?**  
18      A. Well -- right. But, I mean, we're  
19 not talking every week maybe, but --  
20      **Q. You're not talking about --**  
21      A. I'm just talking on -- as a -- on  
22 the schedule, like every week, but, you know,  
23 whenever I had time, I would go.  
24      **Q. Go to the dump?**  
25      A. Sure.

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1       **Q. Okay. And when were you at**  
2 **Liberal?**  
3       A. From '62 -- I worked there about  
4 fifteen years.  
5       **Q. And what kind of hours, while you**  
6 **were in high school, did you -- you were still**  
7 **going to school while you were working at**  
8 **Liberal or did you drop out for a while?**  
9       A. Oh, no. No. Yeah.  
10      **Q. You continued on at both?**  
11      A. At day sixteen, I started at  
12 Liberal.  
13      **Q. Uh-huh. And you worked there**  
14 **during the week, weekdays?**  
15      A. Yeah, mostly. During the week.  
16 Mostly evenings, though.  
17      **Q. Evenings at Liberal?**  
18      A. Yeah.  
19      **Q. So did you have time to go to the**  
20 **dump after school before you went to Liberal?**  
21      A. Well, I mean, I didn't work five  
22 days a week at Liberal. So, you know, if I  
23 didn't work, I'd probably go down there.  
24      **Q. But I'm just confused about the**  
25 **thirty hours a week at Liberal.**

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1       **Q. Did you have a car when you turned**  
2 **sixteen?**  
3       A. I did. A '48 Plymouth Coupe.  
4       **Q. And you could drive yourself**  
5 **around at that point?**  
6       A. Absolutely. Yep.  
7       **Q. Now, when you finished high school**  
8 **in '65, do I remember your testimony last time**  
9 **that you bought a house?**  
10      A. I bought a house. Actually, I was  
11 nineteen.  
12      **Q. Uh-huh. About '64, '65?**  
13      A. '64.  
14      **Q. Where did you buy a house?**  
15      A. Huber South.  
16      **Q. And you moved in by yourself?**  
17      A. I was married.  
18      **Q. Oh, you got married by then?**  
19      A. I was married in '65.  
20      **Q. And then did you continue to work**  
21 **at Liberal after that --**  
22      A. Yes.  
23      **Q. -- and continue to go to the dump?**  
24      A. Absolutely.  
25      **Q. Did you increase your hours at**

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9 (Pages 30 to 33)

<p>1 <b>Liberal after you finished high school?</b>  2 A. Yeah. I'm sure.  3 <b>Q. Then how long did you continue to</b>  4 <b>go to the dump after you bought the house? How</b>  5 <b>many more years?</b>  6 A. Probably four. Around in that  7 neighborhood. About four years.  8 <b>Q. More or less?</b>  9 A. Yes.  10 <b>Q. And why did you stop going to the</b>  11 <b>dump?</b>  12 A. In the later years, let's see,  13 from '65 up till about '70, I started working  14 full-time then and then I would become  15 different department managers. So just didn't  16 allow me to -- I would go maybe a Saturday now  17 and then, but I couldn't do them regular --  18 <b>Q. And you became a department</b>  19 <b>manager. Was this at Liberal?</b>  20 A. Yes.  21 <b>Q. When did you stop working at</b>  22 <b>Liberal?</b>  23 A. It had to have been sometime  24 around '72, right in there somewheres.  25 <b>Q. While you were working -- or going</b>  Page 34</p>	<p>1 <b>to the dump prior to -- any time between when</b>  2 <b>you were eight or ten and when you stopped</b>  3 <b>going in the late '60s, maybe 1970, did you</b>  4 <b>ever see Ed Grillot at the dump?</b>  5 A. Oh, sure. We'd go there a lot of  6 times together.  7 <b>Q. You'd go there together?</b>  8 A. Yeah. A lot of times on  9 Saturdays.  10 <b>Q. What did Ed do at the dump?</b>  11 A. About the same as I did. Go  12 through, sifting dirt, looking for money and  13 things like that.  14 <b>Q. And how about David Grillot, did</b>  15 <b>you ever see David at the dump?</b>  16 A. Not near as often.  17 <b>Q. Did David, to your knowledge, ever</b>  18 <b>go to work at the dump?</b>  19 A. David did go to work at the dump.  20 <b>Q. When was that?</b>  21 A. Well, that was probably -- sort of  22 when I slowed down, which had to be late '60s.  23 I know he went there for a while. I don't  24 think he stayed very long.  25 <b>Q. Do you have an understanding what</b>  Page 35</p>
<p>1 <b>he did at the dump?</b>  2 A. Sort of what I did. Sort through  3 metal. Probably help customers unload, you  4 know, trailers and trucks, whatever.  5 <b>Q. Did you help customers unload</b>  6 <b>trailers and trucks?</b>  7 A. Not so much.  8 <b>Q. Some?</b>  9 A. Maybe -- probably some. Probably  10 some. But that wasn't a normal thing to do.  11 <b>Q. Not a normal thing for you to do?</b>  12 A. Right.  13 <b>Q. Do you know if David Grillot ever</b>  14 <b>worked with the -- operating an incinerator at</b>  15 <b>the dump?</b>  16 A. I do recall, at that time that he  17 did work there, they had built an incinerator  18 on the back-end, and I think he was sort of  19 running that operation at this time.  20 <b>Q. When you say at that time, what</b>  21 <b>time are we talking about?</b>  22 A. Well, it had to have been late  23 '60s area.  24 <b>Q. After he started coming more</b>  25 <b>regularly --</b>  Page 36</p>	<p>1 A. Right.  2 <b>Q. -- to the dump?</b>  3 A. Right.  4 <b>Q. And did you see Alcine Grillot at</b>  5 <b>the dump?</b>  6 A. Oh, every day.  7 <b>Q. Why every day?</b>  8 A. He's the one that ran the  9 bulldozer to cover things up mostly.  10 <b>Q. He was on the bulldozer?</b>  11 A. He was on the dozer. Yeah.  12 <b>Q. Anybody else on the dozer?</b>  13 A. He wouldn't let nobody run the  14 dozer.  15 <b>Q. He was the guy?</b>  16 A. He was the only one.  17 <b>Q. Ever see Kenny Grillot at the</b>  18 <b>dump?</b>  19 A. Every day.  20 <b>Q. He wasn't on the bulldozer, was</b>  21 <b>he?</b>  22 A. He wasn't allowed on the dozer.  23 <b>Q. What did he do?</b>  24 A. Well, he mostly ran the -- as you  25 would come in and he would see what you have  Page 37</p>

10 (Pages 34 to 37)

1 and, you know, charge whatever. And then --  
 2 **Q. He was at the gate?**  
 3 A. He was at the gate.  
 4 **Q. Uh-huh.**  
 5 A. And then he would -- his main job  
 6 was to sort through the things that were dumped  
 7 to get all the copper out of it.  
 8 **Q. What sort of things would he sort**  
 9 **through for copper?**  
 10 A. Televisions, electric motors.  
 11 Just -- light fixtures. Whatever had a piece  
 12 of copper in it, he salvaged it.  
 13 **Q. Copper had value back then, huh?**  
 14 A. Well, I'm sure it had some. But  
 15 not like today. And lead. He would melt a lot  
 16 of lead.  
 17 **Q. How would he melt the lead?**  
 18 A. He had like a little heating  
 19 plate, and he melted it in like a little  
 20 kettle.  
 21 **Q. Was this in a building somewhere?**  
 22 A. In the trailer.  
 23 **Q. He did this right in the trailer?**  
 24 A. Yeah.  
 25 **Q. How big was the trailer?**

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1 often.  
 2 **Q. Would you say at least weekly?**  
 3 A. Oh, definitely.  
 4 **Q. Do you know where the lead came**  
 5 **from?**  
 6 A. It came from DP&L. There was some  
 7 type of a long -- it was about that long  
 8 (indicating), maybe that big around  
 9 (indicating). And I know they was attached at  
 10 the wires at the top. And then they were full  
 11 of little lead beads. That's what he would  
 12 melt.  
 13 **Q. Was it rod shaped?**  
 14 A. Rod. Round. Yeah. Hollow.  
 15 **Q. Anything else where the lead may**  
 16 **have come from?**  
 17 A. That's the only thing that I can  
 18 really pinpoint.  
 19 **Q. Okay. Do you know when the dump**  
 20 **closed?**  
 21 A. That was at the period that I quit  
 22 going. It could have been the early '80s.  
 23 **Q. And did you have any experience**  
 24 **working at any incinerator on the dump?**  
 25 A. He had built two types of

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1 A. Eight by maybe twenty at the most.  
 2 **Q. And was the trailer near the**  
 3 **entrance to the dump?**  
 4 A. Yeah.  
 5 **Q. Did the entrance to the dump**  
 6 **change at all while you were going there?**  
 7 A. It did.  
 8 **Q. And we talked about that at the**  
 9 **last deposition, didn't we?**  
 10 A. Yes.  
 11 **Q. Do you remember identifying the**  
 12 **locations?**  
 13 A. Right.  
 14 **Q. So Kenny basically was stationed**  
 15 **at the entrance and the trailer near the**  
 16 **entrance?**  
 17 A. Right.  
 18 **Q. How often was he cooking the lead?**  
 19 **How often was he melting the lead?**  
 20 A. I mean, I can't say, quite -- I  
 21 mean, I know quite often, but I can't say.  
 22 **Q. Whether it was weekly or daily?**  
 23 A. Oh, well, I'm sure it was weekly.  
 24 **Q. At least.**  
 25 A. Yeah. But I just know quite

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1 incinerators.  
 2 **Q. Who's he?**  
 3 A. Cyril.  
 4 **Q. Cyril?**  
 5 A. No. Alcine. And one was just  
 6 basically a big hole in the ground. And at one  
 7 end of it, they had a big blower and people  
 8 would dump on this big cement pad and the dozer  
 9 just push it in and they just burn it.  
 10 And then later on, I think they built  
 11 a little bit more sophisticated incinerator. And  
 12 then that's what I think David was sort of in  
 13 charge of, keeping that thing going.  
 14 **Q. And you say they. Who built the**  
 15 **more sophisticated incinerator?**  
 16 A. Well, I wasn't there at that  
 17 particular time, which it had been sort of  
 18 toward the end. So I can't say who I saw do it  
 19 because I didn't see it.  
 20 **Q. Uh-huh.**  
 21 A. But I know it would have been  
 22 Alcine. But he built his own stuff.  
 23 **Q. Do you know the name Larry**  
 24 **Brandon?**  
 25 A. Larry Brandon. Right.

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11 (Pages 38 to 41)

1       **Q. What do you know about him?**  
2       A. Well, Larry Brandon, he used to be  
3 a -- he used to be a policeman, and he was  
4 friends with the Grillots. And Larry Brandon,  
5 he started up the trash container business,  
6 compactors. And then he owned a dump out on  
7 Powell Road. And me and Eddie built a -- sort  
8 of an incinerator for him.  
9       **Q. Eddie Grillo?**  
10      A. Yeah.  
11      **Q. And when did that happen?**  
12      A. Oh, we was young. It had to have  
13 been around eighteen, nineteen, twenty, right  
14 around in that area. I'd say close to twenty.  
15      **Q. When you were twenty?**  
16      A. Yeah.  
17      **Q. Now, did Larry Brandon have**  
18 **anything to do with the incinerators at South**  
19 **Dayton?**  
20      A. No.  
21      **Q. Not that you can recall?**  
22      A. No.  
23      **Q. Okay. Now -- if I use the word**  
24 **burning dump, would that mean anything to you?**  
25      A. A what?

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1 in?  
2      A. Yeah.  
3      **Q. What kind of waste got burnt?**  
4      A. Wood, metal, telephone poles,  
5 skids, paint, ink, ice cream. A lot of  
6 times --  
7      **Q. It sounds like you were focused on**  
8 **that ice cream.**  
9      A. I couldn't get there fast enough  
10 to get that ice cream.  
11      **Q. I think you're going to get some**  
12 **of that for lunch.**  
13      A. And, like I say, Coca-Cola dumped  
14 bottles and crates. Pepsi Cola bottles and  
15 crate. Household goods or whatever.  
16 Refrigerators, stoves. It was all burnt.  
17      **Q. Did anything not get burnt that**  
18 **went to the dump?**  
19      A. Yeah. The ice cream we picked up.  
20 It didn't get burnt. But if it did get -- no,  
21 I'd say there's no -- the only thing that might  
22 not have got burnt would be like if someone  
23 would bring something that we wanted, we'd just  
24 get it before it got burnt. But everything got  
25 burnt at the dump.

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1       **Q. A burning dump. Would that mean**  
2 **anything to you?**  
3      A. I would say that's what he had.  
4      **Q. Who's he?**  
5      A. Cyril. You said a burning dump?  
6      **Q. A burning dump.**  
7      A. Well, that's a burning dump.  
8      **Q. That being South Dayton Dump?**  
9      A. Yeah.  
10      **Q. What is a burning dump?**  
11      A. I'm assuming it would be when you  
12 took stuff in and it gets burnt till -- you  
13 know, it gets burnt.  
14      **Q. Is that something that happened at**  
15 **South Dayton Dump?**  
16      A. Oh, absolutely. Yeah. That was  
17 their daily operation.  
18      **Q. On a daily basis?**  
19      A. Oh, sure.  
20      **Q. All day long?**  
21      A. Well, I'm not going to say a daily  
22 basis. I will say when it got to a certain  
23 point, they had a big enough pile, then they  
24 would burn it.  
25      **Q. A big enough pile of waste coming**

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1       **Q. Now, just a question about what**  
2 **Kenny was doing. Did you observe how customers**  
3 **paid to dump at the -- when they came into the**  
4 **landfill?**  
5      A. Oh, it was cash money.  
6      **Q. Was everything on a cash money**  
7 **basis?**  
8      A. Well, as far as, you know, your  
9 normal people but no companies. But definitely  
10 on -- individuals, we'd just take something  
11 there to the dump.  
12      **Q. What about the companies? Do you**  
13 **have an understanding --**  
14      A. Oh, I'd have no idea about that.  
15      **Q. You didn't know about that?**  
16      A. No.  
17      **Q. Who --**  
18      A. Now, I recall, though, that my  
19 aunt, Leonne, she would come quite often and  
20 get little tickets. I'm assuming they probably  
21 came from the companies. I guess that's how  
22 they -- it -- she'd get the tickets, take them  
23 home and do whatever.  
24      **Q. Leonne would pick up the**  
25 **tickets --**

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12 (Pages 42 to 45)

1 A. Yeah.  
 2 **Q. -- at the dump?**  
 3 A. Yes.  
 4 **Q. And whose wife was Leonne?**  
 5 A. Alcine.  
 6 **Q. So do you know whether she handled**  
 7 **the accounting for the --**  
 8 A. She -- yeah. She handled the  
 9 accounting for the dump.  
 10 **Q. And do you know, did she pass that**  
 11 **job along to anybody else?**  
 12 A. No. No.  
 13 **Q. It was just Leonne?**  
 14 A. Absolutely.  
 15 **Q. Do you know when Leonne passed**  
 16 **away?**  
 17 A. I just can't give you a date. I  
 18 just -- I just don't recall.  
 19 **Q. Decade maybe?**  
 20 A. What?  
 21 **Q. Maybe a decade?**  
 22 A. Be specific.  
 23 **Q. Do you know what decade that she**  
 24 **passed away?**  
 25 A. Oh, it had to be --

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1 **Q. Where would you -- what would you**  
 2 **dump them into?**  
 3 A. Dump them on the ground.  
 4 **Q. Anywhere?**  
 5 A. Anywhere. Yeah.  
 6 **Q. Okay. So that wasn't related to**  
 7 **the burning in particular?**  
 8 A. Well, it was -- it would have been  
 9 in the burning pile.  
 10 **Q. Oh, you'd dump into the burning**  
 11 **pile?**  
 12 A. Yeah. Or close by it. He  
 13 probably pushed it in.  
 14 **Q. Pushed the liquid or the sludge?**  
 15 A. Uh-huh.  
 16 **Q. And who would he be, Alcine, the**  
 17 **bulldozer?**  
 18 A. Alcine, the bulldozer.  
 19 **Q. How did you cut open the barrels?**  
 20 A. Hammer and a chisel.  
 21 **Q. Did Ed participate in that, Ed**  
 22 **Grillot?**  
 23 A. Ed did, too.  
 24 **Q. Anybody else?**  
 25 A. They had a worker there. His name

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1 (Pause in proceedings.)  
 2 **Q. What were you saying?**  
 3 A. You asked me when did she pass.  
 4 **Q. Yeah. What decade?**  
 5 A. Well, it had to be 19 something.  
 6 **Q. That narrows it down.**  
 7 A. And it could have been in --  
 8 probably the '70s.  
 9 **Q. That early?**  
 10 A. Yeah. '70s, '80s, yeah, around  
 11 there somewhere.  
 12 **Q. That helps. I was just wondering.**  
 13 **And can you see -- I'm wondering if you ever**  
 14 **saw any drums come into the dump?**  
 15 A. Oh, sure.  
 16 **Q. Was that frequent?**  
 17 A. I'd say so, yes.  
 18 **Q. And I remember your testimony at**  
 19 **the last deposition, that you participated in**  
 20 **cutting open --**  
 21 A. Cutting the drums open. Uh-huh.  
 22 **Q. Why did you do that?**  
 23 A. Dump them over, drain them.  
 24 **Q. Get rid of the liquids?**  
 25 A. Yeah.

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1 was Bud. I know he did it a lot.  
 2 **Q. Right. You mentioned Bud last**  
 3 **time. I don't think you remember Bud's last**  
 4 **name last time.**  
 5 A. No.  
 6 **Q. Do you know whether Bud has passed**  
 7 **away?**  
 8 A. Oh, a long time ago.  
 9 **Q. Do you remember when he passed**  
 10 **away? I mean, you remember that it happened?**  
 11 A. Oh, definitely. He lived in the  
 12 trailer, in the tail end of it.  
 13 **Q. A different trailer --**  
 14 A. No, same trailer.  
 15 **Q. Oh, he lived in the trailer that**  
 16 **Ken did the lead melting?**  
 17 A. Right.  
 18 **Q. That was an all-purpose trailer?**  
 19 A. Huh?  
 20 **Q. That was an all-purpose trailer?**  
 21 A. Yeah. Well, he was sort of that  
 22 type of person.  
 23 **Q. And what happened to the drums**  
 24 **that the liquids were poured out of?**  
 25 A. They -- he sold them to a

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13 (Pages 46 to 49)

<p>1 particular company, and I don't know if I can 2 recall the name. But a company would come and 3 take all the drums. 4 <b>Q. Was Alcine the one that sold them?</b> 5 <b>When you say he, do you mean Kenny or Alcine?</b> 6 A. Well, Kenny or Alcine. 7 <b>Q. Whoever?</b> 8 A. Whoever. Yeah. 9 <b>Q. I'm going to try a couple of names</b> 10 <b>out on you to see if you're familiar with them</b> 11 <b>or if they help your memory.</b> 12 <b>Have you ever heard of Lammers</b> 13 <b>Barrel.</b> 14 A. Who? 15 <b>Q. Lammers Barrel?</b> 16 A. No. 17 <b>Q. What about Dayton Industrial Drum?</b> 18 A. I'm not going to -- it's not 19 really clear to me. 20 <b>Q. That's okay.</b> 21 A. The name. 22 <b>Q. I just wanted to see if those</b> 23 <b>names meant anything to you.</b> 24 <b>In general, did you personally</b> 25 <b>observe trucks coming into the dump with waste?</b> Page 50</p>	<p>1 A. Yeah. Sure. Definitely. 2 <b>Q. Was that something that you saw</b> 3 <b>every day that you were at the dump?</b> 4 A. I can't say every day. I'm not 5 going to say every day. 6 <b>Q. Frequently?</b> 7 A. Yeah. Frequently. Sometimes 8 twice when I might be there. 9 <b>Q. Sometimes twice?</b> 10 A. Yeah. The truck might come and 11 another one might come. But it was frequent. 12 <b>Q. All right. Let's see what time it</b> 13 <b>is. We've been going for about forty-five</b> 14 <b>minutes. I'm going to keep on going if you</b> 15 <b>want to keep on going.</b> 16 A. Let's do it. 17 <b>Q. Let me ask you about some specific</b> 18 <b>companies, some of which you have already</b> 19 <b>mentioned. Let's start with the Coca-Cola.</b> 20 <b>You mentioned Coca-Cola earlier.</b> 21 A. Yes. Uh-huh. 22 <b>Q. Do you remember mentioning them at</b> 23 <b>the last deposition?</b> 24 A. Yes. 25 <b>Q. Did Coca-Cola bring waste to the</b> Page 51</p>
<p>1 site? 2 A. Broken bottles in crates, wood 3 crates. 4 <b>Q. And you observed that.</b> 5 A. Uh-huh. 6 <b>Q. What about caps?</b> 7 A. Well, that was one of our 8 little -- yeah, when they would dump Coca-Cola 9 or Pepsi -- back then, they had games where you 10 took the plastic thing out in the center. I 11 don't know if it was Monopoly or some type of 12 game that you played and we would go through 13 and save the -- get the caps to see what -- you 14 know, whatever we was looking for. I can't 15 recall if it was -- like I said, I don't 16 remember the games right now. But -- 17 <b>Q. This was Coca-Cola, to your</b> 18 <b>memory?</b> 19 A. Yeah. 20 <b>Q. Pepsi, too?</b> 21 A. I'm -- I'm pretty sure. 22 <b>Q. And what age were you playing --</b> 23 <b>grabbing these caps and playing the games?</b> 24 A. Well, probably then, we were 25 probably kind of young. Well, fifteen, right Page 52</p>	<p>1 around in that area. 2 <b>Q. Uh-huh. Maybe younger. What</b> 3 <b>about when you were eight, nine, ten?</b> 4 A. It could have been. 5 <b>Q. Wood trays, did those --</b> 6 A. Yeah, that the bottles used to sit 7 in. 8 <b>Q. The bottles themselves?</b> 9 A. Yes. 10 <b>Q. The caps were all from Coke?</b> 11 A. Right. 12 <b>Q. Anything else that you can think</b> 13 <b>of that came from Coke?</b> 14 A. No. 15 <b>Q. And what kind of vehicles did this</b> 16 <b>stuff come in?</b> 17 A. Well, there was -- the trucks. As 18 I recall, it would be the same trucks that they 19 delivered, had like doors on the side. That's 20 my best recollection. 21 <b>Q. We're still talking about Coke</b> 22 <b>now, right?</b> 23 A. Yeah. 24 <b>Q. Do you remember if the trucks had</b> 25 <b>Coca-Cola on them?</b> Page 53</p>

14 (Pages 50 to 53)

1 A. Oh, definitely.  
 2 **Q. And you observed that?**  
 3 A. Oh, sure.  
 4 **Q. Do you know how frequently the**  
 5 **trucks came in?**  
 6 A. I can't -- I don't think it was,  
 7 you know, frequent. It was probably when they  
 8 just had a large amount of stuff that they  
 9 wanted to get rid of. It's not a daily thing.  
 10 It might not have even been a weekly thing.  
 11 **Q. Do you know whether when the**  
 12 **truck -- the Coca-Cola vehicle came in, whether**  
 13 **more than one came in at a time --**  
 14 A. No. No.  
 15 **Q. -- or a single one?**  
 16 A. Just one.  
 17 **Q. All right. Let's go on to another**  
 18 **company that you mentioned. You mentioned**  
 19 **Sherwin-Williams.**  
 20 A. Right.  
 21 **Q. Do you know what kind of a company**  
 22 **Sherwin-Williams Company was when you were**  
 23 **there?**  
 24 A. It was a paint company.  
 25 **Q. How did you happen to know that?**

Page 54

1 the last deposition that you used some of the  
 2 Sherwin-Williams paint that was taken to the  
 3 dump?  
 4 A. Oh, sure.  
 5 **Q. Tell me about that.**  
 6 A. Well, whatever paint would come,  
 7 my Uncle Ken would call us and tell us -- you  
 8 know, tell my mom or whoever -- there's some  
 9 paint there. And then I can specifically  
 10 remember -- I was probably ten years old or so  
 11 that we painted the basement of where we was  
 12 living at that time with that paint.  
 13 **Q. What color?**  
 14 A. Pink. Whatever color you got,  
 15 that's what you used.  
 16 **Q. I got you. So you found that**  
 17 **paint in the dump?**  
 18 A. Yes.  
 19 **Q. And --**  
 20 A. Well, I didn't find it. He found  
 21 it.  
 22 **Q. Kenny?**  
 23 A. Yeah.  
 24 **Q. And he called your family?**  
 25 A. Yeah.

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1 Well known?  
 2 A. Well-known company.  
 3 **Q. Well, tell me about what you know**  
 4 **about Sherwin-Williams coming to the dump.**  
 5 A. Well, mostly they would bring like  
 6 drums of paint or in five-gallon buckets.  
 7 **Q. And what kind of vehicles did**  
 8 **Sherwin-Williams have?**  
 9 A. They would be like a box truck.  
 10 **Q. Do you remember seeing a**  
 11 **Sherwin-Williams box truck?**  
 12 A. Uh-huh.  
 13 **Q. Did it have the name**  
 14 **Sherwin-Williams on it?**  
 15 A. Yes.  
 16 **Q. Do you remember any symbol that**  
 17 **was on the box, on the box truck?**  
 18 A. Not to my recollection.  
 19 **Q. Okay. Do you remember any vans,**  
 20 **any vans from Sherwin-Williams?**  
 21 A. I can't say definitely.  
 22 **Q. But you do remember the box**  
 23 **trucks?**  
 24 A. Yes.  
 25 **Q. Do you remember your testimony at**

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1 **Q. All right. And do you remember**  
 2 **what kind of containers they were that you**  
 3 **brought back?**  
 4 A. The ones that we got was like in  
 5 five-gallon buckets.  
 6 **Q. All right. Do you have any recall**  
 7 **of how frequently Sherwin-Williams trucks came**  
 8 **to the site?**  
 9 A. No. It was not a daily or weekly  
 10 thing. Just periodically.  
 11 **Q. Do you remember the size of the**  
 12 **box trucks?**  
 13 A. No. I can't say that. Not very  
 14 big.  
 15 **Q. You also mentioned Pepsi. We**  
 16 **talked a little bit about Pepsi when you talked**  
 17 **about Coca-Cola. Do you have a recall of Pepsi**  
 18 **vehicles come to the dump?**  
 19 A. I would say it would be about the  
 20 same situation as the Coke.  
 21 **Q. Do you specifically remember Pepsi**  
 22 **vehicles?**  
 23 A. Oh, definitely.  
 24 **Q. And they had Pepsi's name on it?**  
 25 A. On the bottles.

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15 (Pages 54 to 57)

1 Q. What about on the trucks?  
 2 A. On the truck.  
 3 Q. What kind of truck did Pepsi come  
 4 in?  
 5 A. Same.  
 6 Q. Same as --  
 7 A. Same as Coke.  
 8 Q. What kind of waste, same waste as  
 9 Coke?  
 10 A. Same thing.  
 11 Q. Bottles?  
 12 A. Bottles, caps, and crates.  
 13 Q. What about frequency of Pepsi?  
 14 A. Not real frequent. Maybe once a  
 15 month. I can't really say. I know we -- it  
 16 was frequent because we always looked at them  
 17 caps, and I know that went on for a little  
 18 while.  
 19 Q. At what age, same?  
 20 A. Yeah. Uh-huh.  
 21 Q. So it could have been what, when  
 22 you were fifteen?  
 23 A. Around in that neighborhood,  
 24 right. Uh-huh.  
 25 Q. Perhaps younger?

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1 Q. What did your dad do there?  
 2 A. I can't give you no specifics, but  
 3 he was a job setter.  
 4 Q. A --  
 5 A. Job setter.  
 6 Q. What does that mean?  
 7 A. He would set up the machine for  
 8 whatever particular part they was running.  
 9 Q. And did you see -- did Delco haul  
 10 its own -- own waste from the plant?  
 11 A. No. Franklin Iron & Metal.  
 12 Q. Franklin Iron & Metal brought in  
 13 Delco waste?  
 14 A. Uh-huh.  
 15 Q. What kind of trucks did Franklin  
 16 Iron & Metal have, if you know?  
 17 A. It was a type of truck that had a  
 18 box mounted to the back of the truck.  
 19 Q. Tell me about the size of those  
 20 trucks, if you know.  
 21 A. Not like a semi but somewhat  
 22 smaller. But the box was probably eight by  
 23 eight, something like that. Maybe six foot  
 24 deep.  
 25 Q. Uh-huh. And did Franklin Iron &

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1 A. I don't think so.  
 2 Q. Now, you also mentioned General  
 3 Motors.  
 4 A. Uh-huh.  
 5 Q. I'm curious about that. And then  
 6 at the same time you talked about Delco?  
 7 A. Well, same people.  
 8 Q. You were associating Delco with  
 9 General Motors?  
 10 A. Yeah.  
 11 Q. And you mentioned a brake plant?  
 12 A. Brake plant, right.  
 13 Q. Do you know whether Delco had a  
 14 brake plant in the vicinity of the dump?  
 15 A. They did because my father worked  
 16 there at the brake plant.  
 17 Q. Your dad worked there.  
 18 A. Uh-huh.  
 19 Q. And do you remember the street  
 20 location of the brake plant?  
 21 A. From the dump?  
 22 Q. Yeah, just where the brake plant  
 23 was.  
 24 A. The brake plant was on Nicholas  
 25 Road about two miles from the dump.

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1 Metal, these trucks, have Franklin Iron &  
 2 Metal's name on them?  
 3 A. To my recollection, yes.  
 4 Q. You don't remember what the -- did  
 5 they have a symbol or anything on them?  
 6 A. No. They just had Franklin, then  
 7 Iron & Metal. There was no symbol, to my  
 8 recollection.  
 9 Q. And you observed them coming into  
 10 the dump?  
 11 A. Oh, they came in quite often,  
 12 yeah.  
 13 Q. Frequently?  
 14 A. Yeah.  
 15 Q. How frequently?  
 16 A. I'm sure daily, nightly thing.  
 17 Q. They had the key, right?  
 18 A. Yeah.  
 19 Q. What period of time do you recall  
 20 Franklin Iron & Metal bringing in Delco  
 21 products?  
 22 A. Well, that would have been around  
 23 the fifteen to twenty, right around in there.  
 24 Q. What about when you were younger?  
 25 A. I just can't recall that young.

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16 (Pages 58 to 61)



1       **Q. Uh-huh. All right. What kind of**  
2 **materials came in those Franklin Iron & Metal**  
3 **trucks?**  
4       A. Well, brake pads. Wheel cylinders  
5 that had a rubber cap on the ends.  
6       **Q. What kind of cylinders?**  
7       A. Wheel. For the brakes. And they  
8 had caps on the end of them. And metal  
9 shavings.  
10       **Q. Uh-huh.**  
11       A. That was really about all from  
12 there.  
13       **Q. That's what you remember in the**  
14 **trucks?**  
15       A. Yeah.  
16       **Q. Did that material go into the pile**  
17 **for burning?**  
18       A. It went into burning, yeah.  
19       **Q. Now, from your last deposition, I**  
20 **remember you talking about Franklin Iron &**  
21 **Metal also taking things away.**  
22       A. Yeah. Would come and pick up  
23 scrap metal.  
24       **Q. Anything else?**  
25       A. No. Just metal.

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1       **Q. Did it come in drums?**  
2       A. Drums.  
3       **Q. And did Reynolds & Reynolds have**  
4 **their own trucks to bring the drums?**  
5       MR. McCALL: Objection. Form.  
6       **Q. To your knowledge.**  
7       A. I can't say.  
8       **Q. What -- you know, what's the --**  
9 **what made you think of Reynolds & Reynolds?**  
10       A. Well, I just knew they were very  
11 close and --  
12       **Q. Did you see their stuff?**  
13       A. Well, I saw it when it come out of  
14 the barrel.  
15       **Q. Uh-huh. And did the barrels have**  
16 **Reynolds & Reynolds name on it?**  
17       A. I'm not going to say that either.  
18 I can't say that, no.  
19       **Q. But you have a memory of**  
20 **Reynolds & Reynolds drums coming to the site?**  
21       MR. McCALL: Objection. Form.  
22       **Q. Go ahead.**  
23       A. Say it again now.  
24       **Q. Do you have a memory of Reynolds &**  
25 **Reynolds drums coming to the site?**

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1       **Q. And this was right from the dump**  
2 **they picked up scrap metal?**  
3       A. Yeah.  
4       **Q. What sort of trucks did Franklin**  
5 **Iron & Metal use to pick up scrap metal?**  
6       A. It was more like an open bed  
7 truck.  
8       **Q. And was that a regular thing that**  
9 **Franklin Iron & Metal did?**  
10       A. Yeah. They would be there  
11 regularly, day and night.  
12       **Q. Did they pay Kenny for the scrap**  
13 **metal?**  
14       A. I couldn't tell you that. I'm  
15 sure. He don't give nothing away. But I can't  
16 say.  
17       **Q. Okay. That's fine. Then earlier**  
18 **today you mentioned Reynolds & Reynolds.**  
19       A. Reynolds & Reynolds. Uh-huh.  
20       **Q. Were they a customer of the dump?**  
21       A. At times, yes.  
22       **Q. And do you know what Reynolds &**  
23 **Reynolds brought to the dump?**  
24       A. It would be ink probably. Sludge  
25 and stuff. So I'm not sure.

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1       Mr. McCALL: Same objection.  
2       THE WITNESS: I knew that's where  
3 they came from.  
4       **Q. Uh-huh.**  
5       A. Just by conversation with Kenny or  
6 Cyril.  
7       **Q. And you saw the material?**  
8       A. I saw the material. Yes. I  
9 probably cut some of the drums open to drain  
10 it.  
11       **Q. You opened some of those drums?**  
12       A. Yeah.  
13       **Q. That's the procedure you told us**  
14 **before with the hammer and --**  
15       A. Chisel. Yeah.  
16       **Q. Where was the Reynolds & Reynolds**  
17 **facility?**  
18       A. From the dump?  
19       **Q. Yeah.**  
20       A. Five miles or less.  
21       **Q. Do you remember what part of town**  
22 **it was in?**  
23       A. It was over Broadway area. Same  
24 street it was on.  
25       **Q. Same street as the dump?**

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17 (Pages 62 to 65)

1 A. Yeah.  
 2 Q. Now, the --  
 3 A. Well --  
 4 Q. Go ahead.  
 5 A. Yeah. It was over, really, on the  
 6 other side of the river. I'm not exactly --  
 7 what the name of the street is. I just know  
 8 the building itself.  
 9 Q. You could find the building if you  
 10 needed to?  
 11 A. Yeah.  
 12 Q. Is the building still standing?  
 13 A. I think it is.  
 14 Q. Just to be clear, what -- what  
 15 street would you say the dump is on today?  
 16 A. The dump today --  
 17 Q. The closed dump today, I would  
 18 say.  
 19 A. That section is probably called  
 20 Dryden Road.  
 21 Q. And do you know whether Dryden  
 22 went by a different name in the past?  
 23 A. Well, you -- that road was divided  
 24 into three different names.  
 25 Q. Uh-huh. In different parts of

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1 Dayton company?  
 2 A. A Dayton company, yeah. Uh-huh.  
 3 Q. Do you know where they were  
 4 located?  
 5 A. It was located on -- actually, all  
 6 these companies are in the same area right  
 7 there. Oh, what's the name of that street?  
 8 McCall Avenue.  
 9 Q. Do you know whether McCall's ever  
 10 brought anything to the South Dayton Dump?  
 11 A. I cannot -- I cannot say.  
 12 Q. You cannot say?  
 13 A. No.  
 14 Q. Do you remember your testimony at  
 15 the last deposition about McCall's?  
 16 A. No.  
 17 Q. Do you recall talking about --  
 18 A. Roll papers maybe.  
 19 Q. Well, you tell me.  
 20 A. Rolls of paper. I remember them  
 21 getting rolls of paper, but I can't really say  
 22 who they came from.  
 23 Q. You remember rolls of paper coming  
 24 to the dump?  
 25 A. Yeah.

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1 it?  
 2 A. At the -- at the bridge on  
 3 Broadway going north, that would have been  
 4 Springboro Pike -- no, that would have been  
 5 Broadway. From the bridge going south, down to  
 6 about where the interstate is, that would have  
 7 been Dryden. And then from there, all the way  
 8 out to almost the Dayton Mall would be  
 9 Springboro Pike.  
 10 Q. And the bridge you're talking  
 11 about is over the river?  
 12 A. Yeah.  
 13 Q. Over which river?  
 14 A. I think that's Little Miami. I  
 15 hope. I think it is.  
 16 Q. So we talked a little bit about a  
 17 number of companies. Let me make sure I got  
 18 the others.  
 19 Ever hear of a company called  
 20 McCall's?  
 21 A. McCall's, yeah.  
 22 Q. What was McCall's?  
 23 A. A printing company for the  
 24 magazine McCall.  
 25 Q. Do you know whether that was a

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1 Q. But you're not sure where they  
 2 came from?  
 3 A. No.  
 4 Q. Do you remember ink or cleanup  
 5 material coming from -- coming to the dump?  
 6 A. From where?  
 7 Q. From McCall's.  
 8 MR. HARBECK: Object to the form.  
 9 MR. ANDREASEN: Object to the form.  
 10 THE WITNESS: I cannot recall  
 11 McCall's too much at all.  
 12 Q. Do you know the name Standard  
 13 Register?  
 14 A. Yes.  
 15 Q. What is Standard Register?  
 16 A. It's a printing company.  
 17 Q. A Dayton company?  
 18 A. Uh-huh.  
 19 Q. Do you know where in Dayton they  
 20 were located or are located?  
 21 A. They're located in this same  
 22 vicinity. It could have been maybe Third  
 23 Street or just over there. Not too far. Right  
 24 along the highway actually.  
 25 Q. 75?

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18 (Pages 66 to 69)

1 A. Yeah. Right.  
2 Q. Do you know whether Standard  
3 Register was a customer of the South Dayton  
4 Dump?  
5 A. No.  
6 Q. You don't know?  
7 A. No. I can't recall.  
8 Q. Do you remember seeing any  
9 Standard Register materials at the South Dayton  
10 Dump?  
11 A. No.  
12 Q. Do you remember seeing any  
13 Standard Register name on any materials at the  
14 South Dayton Dump?  
15 A. No.  
16 Q. Ever see any Standard Register  
17 trucks at the dump?  
18 A. No.  
19 Q. Okay. I'm going to use an  
20 exhibit.  
21 MR. SILBER: If you would, mark this  
22 as Wendling Exhibit 1.  
23 (Thereupon, Wendling Exhibit Number 1  
24 was marked for purposes of identification.)  
25 (Thereupon, an off-the-record

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1 Q. My first question for you is, do  
2 you have any idea who wrote the words on this  
3 document?  
4 A. No.  
5 Q. Do you recognize the handwriting?  
6 A. No.  
7 Q. Were you familiar with handwriting  
8 of your uncle's?  
9 A. No.  
10 Q. Do you see on this document --  
11 there's no Bates stamped on this document, but  
12 it's a three-page document.  
13 MR. HAUGHEY: I'm going to object for  
14 lack of foundation, for using this document so  
15 far.  
16 Q. It's okay. That's -- you don't  
17 have to worry about that, Mike.  
18 A. I thought you were talking to me.  
19 Q. That's among us lawyers. I do  
20 want to ask you some questions. There's some  
21 writing on the document, you see one, two, and  
22 three. One and two on the first page and three  
23 on the second page. Okay? And do you see  
24 there's a -- sort of a parcel map that goes  
25 from page 1 to 2 to 3?

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1 discussion was had.)  
2 (Thereupon, a break was had.)  
3 Q. Just a quick question for you,  
4 Mike. Do you know the name Robert Aldridge?  
5 A. No.  
6 Q. Have you heard of a company called  
7 Container Services or Container Service?  
8 A. I've heard of that name in later  
9 years but not at this particular time.  
10 Q. Well, what -- how had you heard of  
11 it in later years?  
12 A. Well, just being out around  
13 companies that I used to in later years be  
14 maintenance supervisors at different factories  
15 and so I have heard of the name. I just say I  
16 have heard of the name. That's all I can say.  
17 Q. Had you ever heard of the name in  
18 connection with the South Dayton Dump &  
19 Landfill?  
20 A. No.  
21 Q. Now, looking at what's been placed  
22 in front of you which we marked as Wendling  
23 Exhibit Number 1, why don't you -- have you had  
24 a chance to read through this?  
25 A. I did read the writing.

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1 A. Uh-huh.  
2 Q. Do you know whether this parcel  
3 map is -- depicts the South Dayton Dump?  
4 A. Yes.  
5 Q. Yes, you -- yes what?  
6 A. Yes, it is the area of the dump.  
7 Q. Then going back to the first page,  
8 there's some writing. I was going to ask you  
9 whether or not where it says under -- after  
10 one, operation consists of solid fill  
11 materials. Do you see that?  
12 A. Yes.  
13 Q. And then it has a list of  
14 materials, brick. Do you see that?  
15 A. Yes.  
16 Q. Was brick, to your understanding,  
17 dumped at the dump?  
18 A. That would be something  
19 consistent. Right.  
20 Q. What about fly ash?  
21 A. Fly ash? Yes. Uh-huh.  
22 Q. Do you know where fly ash came  
23 from?  
24 A. Well, it's according to -- if  
25 we're --

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19 (Pages 70 to 73)

1 MR. HAUGHEY: Can I take a continuing  
2 objection for lack of foundation?  
3 MR. SILVER: You may.  
4 MR. HAUGHEY: Thank you.  
5 MR. EDDY: Objection.  
6 Q. Did you observe fly ash come into  
7 the dump? You personally.  
8 A. I think there might be different  
9 words for fly ash, so I'm not sure on which --  
10 what fly ash really represents.  
11 Q. Uh-huh. Do you have other words  
12 for fly ash?  
13 A. Well, that's what I'm asking. You  
14 know there are other words for fly ash.  
15 Q. Are there?  
16 A. I don't know. I might call it  
17 something else. So I can't say -- I don't  
18 know.  
19 Q. That's okay. Do you know -- do  
20 you have an understanding what fly ash is?  
21 A. Well, if you call it a different  
22 name I might. Not by that name.  
23 Q. Okay. Well, I would have to try  
24 to -- I can, you know, dial up my dictionary  
25 and give you some synonyms, but you tell me.

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1 was that just the name of the company?  
2 A. That was the name of the company.  
3 Q. How is it that you connect GH&R to  
4 the South Dayton Dump?  
5 A. Well, I'm connecting it with what  
6 they did. And as I recall, that's a -- GH&R  
7 was a name of a company that was, to my  
8 recollection, that was talked about, you know.  
9 Q. Do you remember GH&R trucks coming  
10 to the dump?  
11 A. I can't -- I couldn't say yes.  
12 Q. You don't remember the trucks?  
13 A. No.  
14 Q. You just remember --  
15 A. The name.  
16 Q. You remember the name --  
17 A. GH&R Foundry.  
18 Q. -- being talked about at the dump?  
19 A. Yeah.  
20 Q. And do you remember what was said?  
21 A. No.  
22 Q. So that's a name that's familiar  
23 to you and -- with some connection to the dump?  
24 A. Yeah. Right. Right.  
25 Q. All right. Let's keep going here.

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1 A. Fly ash just isn't a word that  
2 registers in my mind.  
3 Q. What about cinders, is that a word  
4 that registers in your mind?  
5 A. Well, I know for cinders, there  
6 could be two different words.  
7 Q. Tell me.  
8 A. It could be cinders or it could be  
9 clinkers.  
10 Q. And you testified about clinkers  
11 at the prior -- at the last deposition.  
12 A. Right.  
13 Q. Okay. Then you see the next word,  
14 foundry sand?  
15 A. Foundry sand?  
16 Q. Yeah. Is that a term that you're  
17 familiar with?  
18 A. Not that term, no.  
19 Q. Do you have another word for it?  
20 A. No.  
21 Q. Do you know of any foundries that  
22 sent waste to the South Dayton Dump?  
23 A. Foundries? Walthers. GH&R. I  
24 remember that one. GH&R.  
25 Q. Do you know what GH&R stood for or

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1 Steel slag, do you see that on the first page,  
2 right after foundry sand?  
3 A. Yes.  
4 Q. Do you have an understanding as to  
5 what steel slag is?  
6 A. That's the same thing. There's  
7 another name for what steel slag is, and I just  
8 can't recall using that term, steel slag.  
9 Q. What about then -- the next item  
10 is broken concrete.  
11 A. Sure.  
12 Q. That came to the dump?  
13 A. Oh, yeah.  
14 Q. Common?  
15 A. Common.  
16 Q. Do you know the source?  
17 A. No.  
18 Q. Blacktop?  
19 A. Blacktop.  
20 Q. Did that come to the dump?  
21 A. Yep. At times.  
22 Q. Do you know the source of the  
23 blacktop?  
24 A. Well, the company right behind the  
25 dump.

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20 (Pages 74 to 77)

1 Q. What's the name of it?  
 2 A. I can't recall the company's name.  
 3 They're a green building.  
 4 Q. Green building?  
 5 A. Yeah.  
 6 Q. Have you ever heard the name  
 7 Valley Asphalt?  
 8 A. Valley Asphalt. Valley?  
 9 Q. Valley Asphalt. Have you heard  
 10 that name?  
 11 A. Yeah. I think that's the name of  
 12 the company.  
 13 Q. What company?  
 14 A. Asphalt.  
 15 Q. Valley Asphalt?  
 16 A. Yeah. I'm pretty sure that's the  
 17 name of the company.  
 18 Q. You mentioned a company right  
 19 behind the dump?  
 20 A. That would be that company.  
 21 Q. Valley Asphalt?  
 22 A. I'm pretty sure.  
 23 Q. Did Valley Asphalt send asphalt to  
 24 the dump?  
 25 A. At times they did.

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1 A. Do what?  
 2 Q. Did you actually observe the  
 3 blacktop at the dump?  
 4 A. Well, you can't miss it. They're  
 5 high mounds. Very high.  
 6 Q. How high?  
 7 A. Right now, it could be a hundred  
 8 feet high.  
 9 Q. You think it's still there?  
 10 A. I would say yeah, that would have  
 11 to. I can't say. I haven't been past there.  
 12 It's been there for a long time, and I say it's  
 13 still there.  
 14 Q. When's the last time that you  
 15 observed the dump?  
 16 A. Oh, the dump? That was about two  
 17 years ago then.  
 18 Q. And did you --  
 19 A. Yeah, it was there then.  
 20 Q. Anyone else send blacktop to the  
 21 dump?  
 22 A. Not to my knowledge.  
 23 Q. Number two, oils. Do you see the  
 24 first word under number two, oils? Are you  
 25 having a little trouble seeing that?

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1 Q. What's your basis of knowledge for  
 2 that?  
 3 A. Very little.  
 4 Q. Well, tell me what it is.  
 5 A. Well, you have to be a little more  
 6 specific.  
 7 Q. Did you observe Valley Asphalt's  
 8 blacktop coming to the dump?  
 9 A. Well, I know that there was a  
 10 parcel of the dump that they was allowed to  
 11 dump that asphalt in. It slowly kept coming  
 12 further, further to the center of the dump.  
 13 Q. Uh-huh. So you say you know that  
 14 Valley Asphalt had a part area of the dump  
 15 where it was allowed to dump --  
 16 A. Dump.  
 17 Q. -- its blacktop?  
 18 A. Yes. Used blacktop.  
 19 Q. I'm sorry?  
 20 A. Used blacktop. Recycled asphalt.  
 21 Q. And that area increased over time  
 22 towards the center?  
 23 A. Yes.  
 24 Q. And is that something that you  
 25 observed?

Page 79

1 A. I do see oils, but I'm trying  
 2 to -- I mean, oils, to me, relate to car oils.  
 3 And I can't --  
 4 Q. It doesn't prompt anything in your  
 5 memory?  
 6 A. No.  
 7 Q. And do you remember seeing oils or  
 8 motor oils or car oils at the dump coming into  
 9 the dump?  
 10 A. I mean, people may have dumped.  
 11 But not knowing maybe what's in a container, I  
 12 can't really say.  
 13 Q. What about paint residue?  
 14 A. Paints, yes. You're talking about  
 15 the Sherwin-Will -- you're talking about  
 16 buckets of paint?  
 17 Q. You tell me.  
 18 A. Well, I know there's buckets of  
 19 paint, and there's still some there.  
 20 Q. Oh, really?  
 21 A. Yeah.  
 22 Q. And you just mentioned  
 23 Sherwin-Williams again. Any other companies  
 24 for paints, paint residue?  
 25 MR. EDDY: Objection to the form.

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21 (Pages 78 to 81)

1 THE WITNESS: No, I can't think of  
2 any.  
3 Q. Brake fluid?  
4 A. Well, I can't say I seen any  
5 buckets of brake fluid. But the only oils that  
6 I could see would be when the brake cylinders  
7 and shavings came, they would be very oily.  
8 Q. And --  
9 A. That's from Delco Products.  
10 Q. I'm sorry?  
11 A. That would have been from Delco  
12 Products.  
13 Q. As you testified before?  
14 A. Yes.  
15 Q. Chemicals for cleaning metals.  
16 Does that prompt any memory for you?  
17 A. No.  
18 Q. Solvent, what about solvents?  
19 A. No.  
20 Q. Do you know whether, without  
21 referring to specific companies or sources, do  
22 you know whether chemicals for cleaning metals  
23 came to the site?  
24 A. No.  
25 Q. You don't know?

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1 Q. Was that a frequent basis?  
2 A. I'm not going to say a weekly  
3 thing. Just now and then.  
4 Q. And were they burned?  
5 A. They was burned.  
6 Q. Do you know where the wooden power  
7 poles came from?  
8 A. That would be kind of hard to  
9 figure. You mean the company?  
10 Q. Yeah.  
11 A. Dayton Power and Light. I thought  
12 you were talking about out there in the --  
13 Q. I got you. How do you know they  
14 came from Dayton Power and Light?  
15 A. Well, they had their names on  
16 them. They have a little tag on them.  
17 Q. What was the tag?  
18 A. It was nailed to the pole.  
19 Q. Was it a metal tag?  
20 A. To my recollection, it was either  
21 copper or brass.  
22 Q. Uh-huh. And what did it say on  
23 the tag?  
24 A. Well, it had a number, I guess,  
25 identifying that particular pole.

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1 A. No.  
2 Q. And same for solvents?  
3 A. Same for solvents. Yeah.  
4 Q. Then turning to the second page of  
5 Exhibit 1, do you see item number three on the  
6 top left corner? Do you see that?  
7 A. Yes.  
8 Q. Okay. And you see where it says  
9 materials that are burned?  
10 A. Right.  
11 Q. Then the next item is wooden  
12 pallets?  
13 A. Right.  
14 Q. Did wooden pallets come to the  
15 dump?  
16 A. Definitely.  
17 Q. And were they burned?  
18 A. Burned.  
19 Q. Then the next item is wooden power  
20 poles?  
21 A. Telephone poles.  
22 Q. Did they come to the dump?  
23 A. Definitely.  
24 Q. Did you observe them?  
25 A. Yes.

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1 Q. Did it say DP&L on it?  
2 A. It said DP&L.  
3 Q. And that was -- was that the way  
4 the poles always -- the poles always have that  
5 tag on them?  
6 A. Quite -- now, I'm not going to  
7 tell you all of them, but I see it a lot. I  
8 think there's some pole laying down there with  
9 it on it.  
10 Q. And -- well, this talks about  
11 material that was burned.  
12 A. Oh, okay. The poles were burned.  
13 Q. You observed poles being --  
14 these --  
15 A. Yes.  
16 Q. -- wooden power poles from DP&L  
17 being burned?  
18 A. Yes.  
19 Q. And where were they burned?  
20 A. Pretty much in the center of the  
21 dump.  
22 Q. Was there a particular pile for  
23 the poles or was it within --  
24 A. Well, yeah, because, as I recall,  
25 they was pretty big piles.

Page 85

22 (Pages 82 to 85)

1 Q. A pretty big pile of --  
 2 A. Of poles. There would be a lot of  
 3 them.  
 4 Q. Were poles burned separate from  
 5 other materials?  
 6 A. Well, yeah, because other type  
 7 material, like skids and all that stuff, they  
 8 burned the poles separately, I think because  
 9 maybe they had a lot of oil or something in  
 10 them. So they was always sort of burnt by  
 11 themselves.  
 12 Q. And who did the -- who set the --  
 13 set the fire?  
 14 A. Alcine always set the fire.  
 15 Q. Alcine set the fire?  
 16 A. Uh-huh.  
 17 Q. Anyone else?  
 18 A. Not to my recollection. I wasn't  
 19 allowed.  
 20 Q. Did he get any assistance?  
 21 A. No.  
 22 Q. How was he -- how would the poles  
 23 get to the right spot at the dump?  
 24 A. Well, when they dumped them, he  
 25 says I want them over there or over there.

Page 86

1 A. Construction jobs. Yes. Uh-huh.  
 2 Q. Do you know any of the sources  
 3 of -- did you observe wood from construction  
 4 jobs at the site?  
 5 A. Well, yeah. That's common.  
 6 Q. Do you know any of the sources of  
 7 the wood from construction jobs?  
 8 A. No.  
 9 Q. Then the next one is for wrecked  
 10 buildings. Same concept there?  
 11 A. Well, that would be the same  
 12 thing. Tear down the building and bring it  
 13 there. Roofing or whatever.  
 14 Q. Do you know any companies that  
 15 brought any of that to the dump?  
 16 A. No.  
 17 Q. Cardboard and paper. Do you see  
 18 that?  
 19 A. Cardboard and paper. Yeah.  
 20 Uh-huh.  
 21 Q. Do you know the sources of  
 22 cardboard and paper at the dump?  
 23 A. No. I remember seeing the roll,  
 24 but I can't pinpoint who brought those.  
 25 Q. Then it says scrap from industry

Page 88

1 Q. And he being who?  
 2 A. Alcine.  
 3 Q. All right. Then we've got  
 4 furniture.  
 5 A. Furniture.  
 6 Q. That got burned?  
 7 A. Yeah.  
 8 Q. Refrigerators?  
 9 A. Refrigerators.  
 10 Q. Did you burn those?  
 11 A. Burn them.  
 12 Q. Other wood products, such as  
 13 brush?  
 14 A. Brush.  
 15 Q. Logs?  
 16 A. Logs.  
 17 Q. Railroad ties?  
 18 A. Railroad ties.  
 19 Q. Where did they come from?  
 20 A. Well, now, I -- I can't see a  
 21 truck bringing them, but I know they're there  
 22 and I've seen them. So I can't say who brought  
 23 them.  
 24 Q. Wood from -- the next item on  
 25 number three wood from construction jobs?

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1 and businesses.  
 2 A. Tear down buildings and this type  
 3 of thing.  
 4 Q. Okay. Free of garbage. Why does  
 5 it say -- did garbage come to the dump?  
 6 A. No. No garbage.  
 7 Q. No household garbage?  
 8 A. No household garbage.  
 9 Q. What about -- we did that one.  
 10 I'll withdraw that one.  
 11 MR. SILVER: Can we take another  
 12 five-minute break? I think I'm about to wrap up.  
 13 (Thereupon, a break was had.)  
 14 (Thereupon, Wendling Exhibit Number 2  
 15 was marked for purposes of identification.)  
 16 MR. SILVER: I was just announcing  
 17 that I was going to place in front of Mike a  
 18 diagram that was used in the first deposition as  
 19 Exhibit 1 that was distributed, I think,  
 20 yesterday, but it's not the same exhibit in the  
 21 sense that the writing that he wrote on the first  
 22 one is not there. This is a fresh one. So we're  
 23 going to ask some questions about that.  
 24 MR. ANDREASEN: Are you going to mark  
 25 that, Larry?

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23 (Pages 86 to 89)

1 MR. SILVER: It's marked as Exhibit  
2 2, Wendling Exhibit 2 for this deposition. It  
3 just got marked.  
4 Q. How are you doing, Mike?  
5 A. Okay.  
6 Q. Feeling pretty good?  
7 A. Oh, yeah.  
8 Q. Okay. Getting hungry yet?  
9 A. Not quite.  
10 Q. Thirsty?  
11 A. (Indicating.)  
12 Q. Got your Pepsi?  
13 A. (Witness nods head up and down.)  
14 Q. All right. I put in front of you  
15 a fairly large diagram which we've marked as  
16 Wendling Exhibit 2. Mike, do you remember that  
17 I showed you the same diagram in your  
18 deposition about a year and a half ago?  
19 A. Yes.  
20 Q. Do you recognize what this diagram  
21 depicts?  
22 A. The dump --  
23 Q. Okay.  
24 A. -- and the area. The street it's  
25 on.

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1 Exhibit 2 where these blacktop mountains were?  
2 A. Okay. This -- this here would be  
3 Valley Asphalt back here (indicating).  
4 Q. Why don't you write in Valley  
5 Asphalt where you think Valley Asphalt was or  
6 is?  
7 A. (Witness complies with request.)  
8 Q. And then --  
9 MR. LEWIS: Larry, excuse me.  
10 MR. SILVER: Is that Marty?  
11 MR. LEWIS: What is he marking?  
12 MR. SILVER: Marty, he's marking the  
13 diagram that we used in his first deposition as  
14 Exhibit 1, but it's free of any -- let me just  
15 finish -- it's free of anything that he wrote on  
16 the first time. So it's a fresh copy of the same  
17 exhibit. Does that make sense?  
18 MR. LEWIS: Yeah. Okay.  
19 MR. SILVER: All right. So he's  
20 putting where he feels Valley Asphalt is or was.  
21 Q. Okay. And then you mentioned  
22 these mountains of blacktop?  
23 A. Uh-huh.  
24 Q. Can you mark where those are on  
25 this diagram? Do you feel capable of doing

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1 Q. What street is showing there?  
2 A. Dryden Road.  
3 Q. When you say the dump, are you  
4 referring to the --  
5 A. South Dayton Dump, which I call  
6 it.  
7 Q. The same dump that you spend a  
8 considerable amount of time at?  
9 A. Yes.  
10 Q. I'm going to give you something to  
11 mark with. And I want to ask you if you're  
12 able to mark some of the locations you  
13 described so far in the deposition today. How  
14 do you like blue, light blue?  
15 A. I do like blue. Green is better,  
16 but I'll take the blue?  
17 Q. You like green?  
18 A. That's my favorite color.  
19 Q. It's kind of a green.  
20 A. Okay. Thank you.  
21 Q. All right. First, do you remember  
22 talking about Valley Asphalt and where the  
23 mountains of blacktop were?  
24 A. Yes.  
25 Q. Would you be able to mark on

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1 that?  
2 A. Right at the present time is  
3 something -- probably like something like that  
4 (indicating).  
5 Q. And, Mike, can you tell me what  
6 you wrote in --  
7 A. Actually, that's the asphalt hill.  
8 Q. You called it asphalt hill --  
9 A. (Witness nods head up and down.)  
10 Q. -- in green on Exhibit 2?  
11 A. Right.  
12 Q. Now, remember we had some  
13 testimony not too long ago, just a few minutes  
14 ago, about a spot in the landfill where the  
15 utility poles were burned.  
16 A. Do you want to know where that is?  
17 Q. If you know where that is, you can  
18 mark it, I would appreciate it.  
19 A. Do you want me to make a circle?  
20 Q. If you think a circle is  
21 appropriate --  
22 A. Yeah.  
23 Q. -- I'm happy with a circle.  
24 A. Well, I mean, I'm going by the  
25 hole of the dump. It would be something --

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24 (Pages 90 to 93)



<p>1 something about like that (indicating).  2 <b>Q. You drew a circle?</b>  3 A. Circle.  4 <b>Q. And what are you depicting with</b>  5 <b>that circle, Mike?</b>  6 A. Well, I'm depicting the deepest  7 part of the dump.  8 <b>Q. And why -- why are you depicting</b>  9 <b>the deepest part of the dump?</b>  10 A. Well, because he starts at the  11 bottom and he works his levels up. So this  12 would have been way back when, the deepest part  13 of the dump that I would recall.  14 <b>Q. And do you remember, I asked you a</b>  15 <b>question in reference to where the utility</b>  16 <b>poles were burned?</b>  17 A. Well, all I can tell you is in  18 this deepest part of the dump. That's the only  19 thing I can tell you.  20 <b>Q. Can you mark what you just circled</b>  21 <b>as deepest part of the dump?</b>  22 A. (Witness complies with request.)  23 <b>Q. What did you just mark so it's --</b>  24 A. It says deepest part of the dump.  25 <b>Q. Okay. Good. We got that. Now,</b></p> <p style="text-align: right;">Page 94</p>	<p>1 just so I understand what you -- you've said,  2 is it your understanding that the utility poles  3 were burned in the deepest part of the dump to  4 begin with?  5 A. It would have to be, yes.  6 <b>Q. Yes. Okay.</b>  7 A. Yes.  8 <b>Q. And then as it got filled in, is</b>  9 <b>that --</b>  10 A. It would keep growing up.  11 <b>Q. What would keep growing up?</b>  12 A. Well, the ground itself by being  13 covered with dirt as time goes on.  14 <b>Q. And that would be dirt from</b>  15 <b>landfilling?</b>  16 A. Well, it would be dirt from the  17 original land, yes.  18 <b>Q. Tell me what that means.</b>  19 A. Dirt from the original parcel.  20 <b>Q. Would be bulldozed over it?</b>  21 A. Yeah. Right.  22 <b>Q. Then what happened?</b>  23 A. Then they start all over again,  24 burn some more.  25 <b>Q. I see. Okay. Was there a</b></p> <p style="text-align: right;">Page 95</p>
<p>1 different place than the deepest part of the  2 dump where other materials were burned?  3 A. No, because the land around it was  4 either sloped or it was like in stair steps to  5 where he would keep bulldozing. So it was in  6 stair steps. So you couldn't have even got a  7 truck around the outer edges of it. So it had  8 to go -- the trucks always went down to the  9 center part.  10 <b>Q. I see. Now, do you remember your</b>  11 <b>testimony earlier today in which you said that</b>  12 <b>the poles were burned separately from other</b>  13 <b>materials that were burned?</b>  14 A. Right.  15 <b>Q. And was that all happening in the</b>  16 <b>same deepest part of the dump?</b>  17 A. Well, it started, yes.  18 <b>Q. Then it created a groove as the</b>  19 <b>bulldozing occurred? Is that what you're</b>  20 <b>saying?</b>  21 A. Do what now?  22 <b>Q. Let me ask it this way. Are there</b>  23 <b>other parts of the dump, other than what you</b>  24 <b>circled there, where burning occurred?</b>  25 A. No. That was just to control it.</p> <p style="text-align: right;">Page 96</p>	<p>1 <b>Q. Say it again.</b>  2 A. That was to control the burn  3 because, you know --  4 <b>Q. To control the burn --</b>  5 A. Right. So it didn't get out, you  6 know, up the hills or wherever.  7 <b>Q. So to control the burn, you picked</b>  8 <b>the deepest part?</b>  9 A. Well, sure.  10 <b>Q. Okay. I think I understand. You</b>  11 <b>testified that you and Ed used hammers and</b>  12 <b>chisels to open drums and let the content out.</b>  13 A. Uh-huh.  14 <b>Q. Was there a particular part of the</b>  15 <b>dump that that occurred?</b>  16 A. No. Just wherever we designated  17 that area that day to dump them.  18 <b>Q. Somebody designated an area?</b>  19 A. Well, Alcine surely.  20 <b>Q. Say again?</b>  21 A. Alcine would say where he wanted a  22 particular truck dumped at.  23 <b>Q. So he would direct the trucks to a</b>  24 <b>particular spot?</b>  25 A. Right.</p> <p style="text-align: right;">Page 97</p>

25 (Pages 94 to 97)

1 Q. To unload drums?  
 2 A. Everything.  
 3 Q. To unload everything. And then as  
 4 to drums, wherever they were unloaded, that's  
 5 where you would do the hammer and chisel work?  
 6 A. Right.  
 7 Q. And that could be in various  
 8 locations at the dump?  
 9 A. At the bottom.  
 10 Q. At the bottom?  
 11 A. Yeah.  
 12 Q. So we're back to the deepest part  
 13 of the dump again?  
 14 A. Yeah.  
 15 Q. Now, I just want to mention a  
 16 couple of companies we already discussed.  
 17 Standard Register, when we asked --  
 18 MR. HAUGHEY: Objection. The  
 19 questions have already been asked and answered.  
 20 Thank you.  
 21 MR. SILVER: That's all right. I  
 22 haven't asked my question yet.  
 23 Q. Standard Register, I asked you  
 24 some questions about them before today. Do you  
 25 remember that company, Standard Register?

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1 earlier today?  
 2 A. Right.  
 3 Q. Do you remember what your answers  
 4 were about McCall's in terms of whether there  
 5 was a connection between McCall's and the dump?  
 6 MR. ANDREASEN: Objection. Asked and  
 7 answered.  
 8 Q. You can go ahead.  
 9 A. I didn't recall any -- the word  
 10 McCall's dumping there. Or the company or  
 11 whatever.  
 12 Q. Same thing for Standard Register,  
 13 if you think of anything before the end of the  
 14 deposition or even afterwards, please let me  
 15 know. Okay?  
 16 A. Okay.  
 17 Q. Thanks.  
 18 MR. SILVER: Those are all the  
 19 questions I have. Thank you. We're going to pass  
 20 it on to another party now. Just relax.  
 21 Steve, I understand you want to go  
 22 first?  
 23 (Thereupon, an off-the-record  
 24 discussion was had.)  
 25 CROSS-EXAMINATION

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1 A. Probably at the last deposition.  
 2 Q. Well, I asked at the last  
 3 deposition, then I asked earlier today. Do you  
 4 remember me asking about Standard Register  
 5 earlier today?  
 6 A. Yes, you did.  
 7 Q. Okay. And do you remember what --  
 8 I asked you whether there was a connection  
 9 between Standard Register and the dump earlier  
 10 today?  
 11 A. Yes.  
 12 Q. Do you remember what your answer  
 13 was?  
 14 A. I had to say I didn't know the,  
 15 you know, connection.  
 16 Q. You -- you don't remember any  
 17 connection?  
 18 A. No.  
 19 Q. Well, I'm just going to ask you if  
 20 you do -- if anything comes to you about that  
 21 during the rest of the deposition or  
 22 afterwards, please let me know.  
 23 A. Okay.  
 24 Q. And same for McCall's, you  
 25 remember I asked you questions about McCall's

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1 BY MR. HAUGHEY:  
 2 Q. Mr. Wendling, my name is Steve  
 3 Haughey. I'm here on behalf of three  
 4 companies -- or two companies and the  
 5 University of Dayton, Flowserve and Standard  
 6 Register. I just have some very quick  
 7 questions.  
 8 Could you pull up Exhibit Number 1  
 9 that Mr. Silver showed you?  
 10 A. (Witness complies with request.)  
 11 Q. Am I correct that you don't  
 12 recognize that document?  
 13 A. No. I never seen it.  
 14 Q. Am I correct that you've never  
 15 seen the document before?  
 16 A. Not before today, no.  
 17 Q. And you have no idea where it came  
 18 from, correct?  
 19 A. No.  
 20 Q. And you don't recognize the  
 21 handwriting, correct?  
 22 A. No.  
 23 Q. Okay. Thank you. Mr. Wendling,  
 24 how did you find out that Plaintiffs wanted to  
 25 take your deposition here today?

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1 A. Private investigator. His name is  
2 Bill.  
3 Q. Is that Bill Walsh?  
4 A. Yeah. Bill Walsh.  
5 Q. Okay. Did he call you?  
6 A. He called me -- yeah, he called  
7 me. Right.  
8 Q. Okay. When did he call you or  
9 about when?  
10 A. Well, the first time for this dep,  
11 he might have called me maybe two or three  
12 months ago and told me they might, you know,  
13 need me again in the near future. Then he  
14 called me back again maybe a couple weeks ago.  
15 Q. And what did he tell you?  
16 A. He just said that we need you to  
17 come to Dayton for another deposition.  
18 Q. Okay.  
19 A. That's about all.  
20 Q. Were you served a subpoena?  
21 A. No.  
22 Q. So you're appearing here  
23 voluntarily?  
24 A. Yes.  
25 Q. Okay. So you drove up from North

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1 A. I would appear here if I didn't  
2 live out of state. Right.  
3 Q. Are you receiving any other  
4 compensation for your testimony here today?  
5 A. None whatsoever.  
6 Q. Okay. Thank you. Where -- are  
7 you staying with anyone at the Marriott or are  
8 you are at the hotel by yourself?  
9 A. My wife came.  
10 Q. Did you meet with Mr. Walsh or  
11 Mr. Silver before today to go over the  
12 testimony you were going to give here today?  
13 A. No.  
14 Q. You didn't meet yesterday with  
15 him?  
16 A. Oh, we met. We had -- we had  
17 dinner around 6:00 or so.  
18 Q. Okay. And where did you have  
19 dinner?  
20 A. At the Marriott.  
21 Q. Okay. Who paid for your dinner?  
22 A. Bill.  
23 Q. Did you talk during dinner?  
24 A. We did.  
25 Q. What did you talk about?

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1 Carolina, correct?  
2 A. Yes.  
3 Q. Where are you staying here in  
4 Dayton or around Dayton?  
5 A. At the Marriott.  
6 Q. Okay. Who's paying for your  
7 hotel?  
8 A. Bill.  
9 Q. Bill Walsh?  
10 A. Walsh. Right. Uh-huh.  
11 Q. Are you being paid for your  
12 mileage?  
13 A. I'm paid for my mileage, yes.  
14 Q. Why are you appearing here  
15 voluntarily as opposed to being required under  
16 a subpoena? Is it just because you're a nice  
17 person? I mean, why are you here voluntarily?  
18 A. He called me years ago, told me  
19 they're doing this or that with the dump and  
20 wanted to know if I would give a deposition to  
21 what you know. I said why not. I mean, I  
22 didn't have no reason to or not to.  
23 Q. Okay. Would you appear here for  
24 this deposition if you were not being paid for  
25 your mileage and for your hotel?

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1 A. We talked about things going on  
2 with me. And Bill was talking about he likes  
3 soccer.  
4 Q. Let me make it clearer so we're  
5 not straying. Did you talk about the dump  
6 site?  
7 A. The dump site?  
8 Q. Uh-huh.  
9 A. No.  
10 Q. Okay. Did you talk about any  
11 customers of the dump site?  
12 A. He asked me about some  
13 recollections.  
14 Q. Okay. Who asked you?  
15 A. Bill.  
16 Q. What recollections did he ask you  
17 about?  
18 A. Well, I think there were just two  
19 companies that he asked me about. One was  
20 Standard Register. And there was another  
21 company. I don't even know -- I don't even  
22 know their name. I can't even recall --  
23 Q. Did Mr. Walsh or Mr. Silver show  
24 you any documents at dinner last night?  
25 A. No.

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27 (Pages 102 to 105)

1       **Q. Did they give you any other**  
2 **documents to review before your testimony here**  
3 **today?**  
4       A. They sent me a copy of the  
5 deposition a couple weeks ago.  
6       **Q. Okay. Are you referring to the**  
7 **earlier deposition you gave in 2012?**  
8       A. Right.  
9       **Q. Okay. Did they -- did that**  
10 **mailing to you come with any other documents?**  
11       A. I think there was something in  
12 there about when this meeting was going to be  
13 held, but that was about it.  
14       MR. ANDREASEN: Steve, can we  
15 identify who they is?  
16       **Q. When I'm referring to they, did**  
17 **the package come from Bill Walsh?**  
18       A. No.  
19       **Q. Who did the package come from?**  
20       A. I don't know. I guess it had to  
21 have come from him or whoever took the  
22 depositions maybe.  
23       **Q. Okay. I just want to clarify for**  
24 **the record. To the best of your recollection,**  
25 **the only thing that was in the package was the**  
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1 **being asked the question by Mr. Silver about**  
2 **when the landfill closed permanently? Do you**  
3 **remember that question?**  
4       A. Right.  
5       **Q. Do you remember saying that you**  
6 **were not sure but it may have been in the early**  
7 **'80s? Do you remember that question and your**  
8 **answer?**  
9       A. Well, I'm saying in the '80s.  
10       **Q. Are you sure it wasn't the late**  
11 **'70s?**  
12       A. Well, let me see. I was down  
13 there in the '70s. The reason why -- I'm  
14 sorry.  
15       **Q. Let me help you a little bit. Do**  
16 **you remember him asking you when you stopped**  
17 **coming to the site and testifying that it was**  
18 **sometime in the early '70s?**  
19       A. Yeah.  
20       **Q. Okay. So if you stopped --**  
21       A. So it had to be the early '80s.  
22 Late '70s, early '80s.  
23       **Q. For what? For your stopping**  
24 **coming to the site or --**  
25       A. For possibly them closing.  
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1 **2012 deposition and information about the**  
2 **location and time of this deposition?**  
3       A. That was all.  
4       **Q. Okay. Nothing else?**  
5       A. No.  
6       **Q. No list or anything else?**  
7       A. No.  
8       **Q. Okay. Thank you. Did you read**  
9 **your 2012 deposition before you came here**  
10 **today?**  
11       A. Well, a little bit. Very little.  
12       **Q. Okay. Were you asked to read**  
13 **anything else?**  
14       A. No.  
15       **Q. You're not represented by counsel**  
16 **here today, legal counsel, are you?**  
17       A. I hope not. I hope I'm on my own.  
18       **Q. I've had a lot of clients say**  
19 **that.**  
20       A. That's true. I can't afford to --  
21       **Q. Were you represented by legal**  
22 **counsel when you gave your deposition back in**  
23 **2012?**  
24       A. No.  
25       **Q. Okay. I believe -- do you recall**  
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1       **Q. If you weren't at the site after**  
2 **the early '70s, how would you know when the**  
3 **landfill stopped operating?**  
4       A. I'm sure I heard it from my  
5 cousin. You know, I can't say who told me or  
6 how I found it out.  
7       **Q. So you're not -- you're relying on**  
8 **word of mouth, correct, with respect to when it**  
9 **closed?**  
10       A. Of definitely when it closed, yes.  
11       **Q. Okay. Thank you. Your role at**  
12 **the landfill or what you did at the landfill,**  
13 **okay, can we talk about that for a little bit?**  
14       A. Sure.  
15       **Q. Okay. Is it basically you and**  
16 **maybe some of your other relatives or cousins,**  
17 **you would go in and you would help pull out**  
18 **salvageable material, correct?**  
19       A. Yes.  
20       **Q. Principally metal?**  
21       A. Yes.  
22       **Q. Was there anything else that you**  
23 **pulled out of the landfill to do something with**  
24 **other than leaving it there?**  
25       A. A lot of stuff I took home.  
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<p>1 Q. Okay. When Uncle Ken -- let me 2 back up. Do you remember testifying that your 3 Uncle Kenny would be the person who would 4 inspect the loads as they came in -- 5 A. Right. 6 Q. -- to the landfill? 7 A. Right. 8 Q. Did he pull off of loads or trucks 9 right then and in that spot -- 10 A. No. 11 Q. -- materials that were 12 salvageable? 13 A. No. 14 Q. So if he saw a load of metal, he 15 would not pull it off, instead he would let it 16 go get in the dump and then tell you to get it 17 back out? 18 A. Everything went to the dump. 19 Q. So it's your testimony that if an 20 entire truckload of metal came in, Kenny would 21 send it into the dump site to be dumped -- 22 A. Right. Right. 23 Q. -- and then he would instruct you 24 or one of your cousins to go get it back out? 25 A. Well, it's burned first. Most of</p> <p style="text-align: right;">Page 110</p>	<p>1 it was burned first. 2 Q. Okay. Burning metal? 3 A. Sure. 4 Q. If someone brought in a load of 5 copper or brass or tin or something like that, 6 would that be burned or would it be taken 7 offsite and -- 8 A. You just wouldn't see a load of 9 copper, tin, or something like -- it would all 10 be mixed up. So that's where you had to go and 11 sort through it and pull out, you know, the 12 type of metal that he wanted, which would 13 mostly be brass, copper, lead things. 14 Q. If a truck came in with let's say 15 a load of used motors, small engine parts and 16 motors, would those materials be pulled off and 17 then handled or would they go into the dump and 18 then someone would go to the dump and pull them 19 out? 20 A. Go into the dump. 21 Q. Do you remember testifying on 22 direct exam that Dayton Walther was a customer 23 of the landfill? 24 A. Yes. 25 Q. What did Dayton Walther send to</p> <p style="text-align: right;">Page 111</p>
<p>1 the landfill? 2 A. Well, what I can remember is like 3 some kind of a sludge or something or other. 4 Mostly like sludge in barrels, if that's a 5 term. 6 Q. Do you know what Dayton Walther 7 did by way of its business? 8 A. It was a manufacturer of -- I know 9 them personally, but I -- I can't tell you 10 exactly what -- what they manufactured. 11 Q. Okay. Do you -- if I -- let me 12 tell you. What about metal rims, steel rims 13 for cars and trucks. Does that ring a bell 14 with you? 15 A. No, because I can't recall seeing 16 steel rims there. 17 Q. Do you know if Dayton Walther 18 operated a foundry? 19 A. Yes. That's what it was called, 20 Dayton Walther Foundry. 21 Q. Do you know what found -- do you 22 know if it sent any of its foundry waste to the 23 site? 24 A. To where? 25 Q. To the site.</p> <p style="text-align: right;">Page 112</p>	<p>1 A. That's what I said earlier. Yeah. 2 That would be the only thing that I can recall. 3 Q. I believe you testified sludge, 4 correct? 5 A. Well -- yeah. Well, that's what I 6 would call sludge. 7 Q. Can you define sludge for the 8 court reporter, please? 9 A. Well, sludge would be if you're 10 cutting something or manufacturing something, 11 the material that you would cut off would have 12 a lot of oil in it. So that's what -- you 13 know -- but it was mostly real thick sludge. 14 Q. Did -- did they send any slag, 15 steel slag from the furnace operations? 16 A. I can't recall that. 17 Q. How did Dayton Wathlers' sludge 18 get to the landfill? 19 MR. SILVER: Objection. No 20 foundation. 21 Q. Did you testify previously that 22 Dayton Walther sent sludge to the landfill? 23 A. Yes. 24 Q. How did that sludge get to the 25 landfill?</p> <p style="text-align: right;">Page 113</p>

29 (Pages 110 to 113)

1 A. Through their trucks.  
 2 Q. Do you remember what the trucks  
 3 looked like?  
 4 A. Huh-uh.  
 5 Q. No recollection at all?  
 6 A. Not really.  
 7 Q. Okay. Did Dayton Walther have a  
 8 key to use the dump site after-hours?  
 9 A. Not to my knowledge. There were  
 10 only two companies.  
 11 Q. I believe you testified on direct  
 12 about GHR?  
 13 A. GH&R Foundry.  
 14 Q. GH&R Foundry, correct?  
 15 A. Uh-huh.  
 16 Q. Do you know what business they had  
 17 in the Dayton area?  
 18 A. It was a foundry.  
 19 Q. Do you know what waste they sent  
 20 to the site?  
 21 A. I can remember like a lot of dust.  
 22 Q. Okay. Dust -- what type of dust?  
 23 A. Well, it could have been from  
 24 their furnaces maybe.  
 25 Q. Anything else?

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1 Q. A foundry.  
 2 A. Not to my recollection. I can't  
 3 recall that there was.  
 4 Q. Did Franklin Iron & Metal -- no,  
 5 skip that. Thank you.  
 6 Okay. Waste coolants and oils, do  
 7 you have any recollection of who might have sent  
 8 waste oils or waste coolants to the site?  
 9 A. No.  
 10 MR. HAUGHEY: Okay. Thank you. I  
 11 appreciate your patience. That's all I have.  
 12 MR. SILVER: Does anyone want to go  
 13 next?  
 14 MR. EDDY: I'll go.  
 15 CROSS-EXAMINATION  
 16 BY MR. EDDY:  
 17 Q. Hi, Mr. Wendling. I represent the  
 18 Sherwin-Williams Company.  
 19 A. Okay.  
 20 Q. You, in your earlier testimony  
 21 today, you were asked by Mr. Silver about any  
 22 materials you believe came to the site from  
 23 Sherwin-Williams and you talked about some box  
 24 trucks that you saw.  
 25 And one of the things that you

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1 A. Mostly dust is what I can really  
 2 recall.  
 3 Q. Any steel slag from their furnace  
 4 operations?  
 5 A. Not to my recollection.  
 6 Q. Do you know how GH&R Foundry's  
 7 waste got to the dump site?  
 8 A. They brought them in -- they  
 9 brought them in a truck that had a box like on  
 10 the back of it, like what I referred to  
 11 earlier.  
 12 Q. Was any of that waste hot when it  
 13 arrived at the landfill?  
 14 A. No.  
 15 Q. Was any of Dayton Walthers' waste  
 16 that came to the landfill arriving at the  
 17 landfill while it was still hot?  
 18 A. No.  
 19 Q. Was NCR a customer of the  
 20 landfill?  
 21 A. Not to my knowledge.  
 22 Q. Do you know if NCR had a foundry  
 23 in the Dayton area during the time the landfill  
 24 was open?  
 25 A. A foundry?

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1 mentioned were five-gallon buckets, and I think  
 2 you mentioned drums as well.  
 3 A. Right.  
 4 Q. Do you recall that?  
 5 A. Yes.  
 6 Q. Do you recall -- do you recall you  
 7 gave a deposition in a related case? Just for  
 8 the record, it's Case Number 10 CV 195. That  
 9 was a deposition you gave back in, believe,  
 10 July of 2012. Do you recall that?  
 11 A. Uh-huh.  
 12 Q. Some of us here at the table today  
 13 weren't part of that deposition at the time.  
 14 A. Uh-huh.  
 15 Q. All right?  
 16 A. Uh-huh.  
 17 Q. Do you recall being asked by  
 18 Mr. Silver these questions and your responses?  
 19 Question, did anything come in drums on the  
 20 Sherwin-William truck? Answer, it was mostly  
 21 gallons, five gallons, quarts. Question,  
 22 anything larger? Answer, I can't recall any  
 23 big drums. I would say mostly gallons and five  
 24 gallons. Do you recall that testimony?  
 25 A. I do.

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30 (Pages 114 to 117)

1       **Q. Does that refresh your testimony**  
2 **today that what you recall coming in from**  
3 **Sherwin-Williams was mainly the five-gallon**  
4 **containers, the one-gallon containers and**  
5 **quart-size containers?**  
6       A. Yes.  
7       **Q. Okay. You're really not sure**  
8 **whether you saw any fifty-five-gallon drums**  
9 **come off from any box truck from**  
10 **Sherwin-Williams?**  
11       A. Well, I'm sure I seen them, but it  
12 was on a very, very limited -- you know, there  
13 might be one drum to a truckload. You know,  
14 not that often.  
15       **Q. Are you able to tell me the number**  
16 **of times you saw a drum come off the**  
17 **Sherwin-Williams -- a fifty-five-gallon drum as**  
18 **opposed to a five-gallon, one-gallon, or a**  
19 **quart container?**  
20       A. It would be very minimal.  
21       **Q. Do you think that was less than**  
22 **half a dozen times?**  
23       A. Probably, yeah.  
24       **Q. Okay. Fair enough. Thank you.**  
25 **Now, were you ever an employee of the South**  
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1       A. Paints. Not coatings.  
2       **Q. We'll just call them paints then.**  
3       A. Yes. Paint. Okay. Yes.  
4       **Q. And you reference getting a call**  
5 **or your family getting a call from --**  
6       A. Kenny.  
7       **Q. -- Uncle Kenny?**  
8       A. Yeah.  
9       **Q. I think your earlier testimony was**  
10 **that you recall, perhaps, you were about ten**  
11 **years old.**  
12       A. Probably was very young.  
13       **Q. Was that a call that your family**  
14 **got from time to time when any kind of paint**  
15 **from any source came into the dump?**  
16       A. Paint wasn't, you know,  
17 something -- would be a regular thing that they  
18 would call us about, no. Now, if they knew --  
19 if he probably knew talking we're going to  
20 paint this or paint that, you know, well, I'll  
21 let you know when it comes in or something to  
22 that effect.  
23       **Q. Did this happen more than one**  
24 **occasion, the occasion being the painting of**  
25 **your family -- the basement of your family**  
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1 **Dayton Dump?**  
2       A. No.  
3       **Q. Were you ever asked to help**  
4 **dispose of any of the materials that came in**  
5 **from customers of the dump as opposed to you**  
6 **being there to try to find things that you**  
7 **might use or take yourself?**  
8       A. Did I try to --  
9       **Q. Help dispose of it.**  
10       A. No. No. That wasn't my job.  
11       **Q. Nothing that Kenny or Alcine --**  
12       A. No.  
13       **Q. -- asked you to do?**  
14       A. No.  
15       **Q. So with respect to the**  
16 **Sherwin-Williams trucks or box trucks that you**  
17 **talked about earlier, you wouldn't have had a**  
18 **hand in removing any things from those trucks**  
19 **for disposal at the site; is that true?**  
20       A. Me personally, no.  
21       **Q. Now, you also mentioned -- and**  
22 **this came up at your July, 2012 and it came up**  
23 **here today -- about using some of the**  
24 **Sherwin-Williams paint or coatings that came**  
25 **into the dump. Do you recall that testimony?**  
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1 **home? Were there other occasions where paint**  
2 **came in from whatever source to the dump and**  
3 **your family was provided access to it?**  
4       A. Well, there's two things that I  
5 recall. One is the painting of that basement.  
6 And another was where we lived at, we had an  
7 old wood picket fence all the way around the  
8 yard, and I remember we got five-gallon buckets  
9 of paint to paint that fence, me and my  
10 brothers and sisters.  
11       **Q. Where did you get it from? Did**  
12 **you get it from Uncle Kenny?**  
13       A. Yeah.  
14       **Q. Do you recall whose paint that**  
15 **was? Manufacturer. In other words, was it**  
16 **Sherwin-Williams in a Sherwin-Williams can?**  
17 **Was it from some other paint manufacturer? Do**  
18 **you recall?**  
19       A. I can't say exactly.  
20       **Q. Do you recall whether any of the**  
21 **other family members from the Grillot family**  
22 **would use paint that would be delivered to the**  
23 **dump from whatever source that it would come in**  
24 **and be used to paint buildings or other things**  
25 **at the dump or it be used by various family**  
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<p>1 members to paint their homes or other buildings 2 or places offsite that they might own? 3 A. I know my cousin Ed, I'm sure he 4 used it. And then another thing that I do 5 remember now that you mentioned that is I was 6 very young and he owned a -- he owned a lot of 7 buildings adjacent to the dump. And I do 8 remember us getting a lot of paint to paint 9 them buildings. 10 Q. When you said Ed, you mean Ed 11 Grillot? 12 A. Yeah. 13 Q. Did you help with that painting? 14 A. No, because he did his thing and I 15 did mine. 16 Q. Do you know how many buildings 17 that was off-site? 18 A. Oh, I painted the buildings. 19 Q. On-site or off-site? 20 A. On-site. 21 Q. I was going to get to that. 22 A. Oh, okay. 23 Q. Mr. Grillot, when he was deposed 24 in this matter a few months back, I think it 25 was about December, he talked about a process</p> <p style="text-align: right;">Page 122</p>	<p>1 of where paint would come in from whatever 2 source offsite, that the sort of the rule laid 3 down by Alcine or one of the other uncles there 4 was that the paint would be salvaged for use 5 on-site. Do you -- 6 MR. SILVER: Objection. 7 Mischaracterization of testimony. Go ahead. 8 Q. Do you recall that being done, 9 that the paint would be salvaged and used -- 10 A. Well, yeah, because if it came 11 in -- definitely, yes. I'm trying to get 12 myself confused. 13 Q. And he -- Mr. Grillot mentioned a 14 process where these canisters or pails, they 15 would be in either partially empty or partially 16 full, depending upon how you want to look at 17 it, partially full five-gallon pails, partially 18 full one-gallon pales, and the partially filled 19 quarts would be poured into the one gallons and 20 the partially filled one gallons would be 21 poured into the fives and when they were 22 filled, they would pour them into the 23 fifty-five-gallon drums. Did you see any of 24 that process going on? 25 A. Well, the process that I saw was</p> <p style="text-align: right;">Page 123</p>
<p>1 you pour it into one big fifty-five gallon 2 drum. But you save all this other stuff until 3 you get ready to use it. Then you dump it all 4 in a drum and stir it up and go to it. 5 Q. So what you're saying is when 6 paint would come in canisters from whatever 7 source offsite, the canisters would be saved 8 and at some point in time, when there was a 9 need for a painting job, whether it be on-site 10 at the dump or off the site, then all that 11 paint in the canisters would be gathered up, 12 dumped in a big drum, and whatever color came 13 out, that's what got -- that was the color that 14 was painted, whether it be a building on-site 15 or off-site? Is that what -- 16 A. I never painted nothing off-site. 17 Q. But is that what was done, to the 18 best of your recollection? 19 A. Yeah. Uh-huh. 20 Q. And, again, were you involved in 21 the painting of the buildings on-site? 22 A. On-site. 23 Q. Let's mark this. I'm going to 24 mark this Deposition Exhibit 3. This is part 25 of the -- I don't have copies for everybody,</p> <p style="text-align: right;">Page 124</p>	<p>1 but it's the aerial photographs that were 2 circulated, I believe, yesterday. There were 3 several sets, but I only have this one here, if 4 you want to make reference to it. 5 (Thereupon, Wendling Exhibit Number 3 6 was marked for purposes of identification.) 7 Q. Mr. Wendling, you've been handed 8 what has been marked as Deposition Exhibit 3. 9 Do you recognize this as an aerial photograph 10 that in the left-hand portion of the 11 photographs shows a portion of the South Dayton 12 Dump? 13 A. Uh-huh. 14 Q. And that would be -- is that a 15 yes? 16 A. Yes. 17 Q. And then there's an indication of 18 where Dryden Road is located there? 19 A. Yes. 20 Q. Do you see that? 21 A. Yes. 22 Q. All right. So in this exhibit 23 then, the area to the left of Dryden Road, that 24 is part of the South Dayton Dump; is that 25 correct?</p> <p style="text-align: right;">Page 125</p>



<p>1 A. Yes.</p> <p>2 Q. And there are a number of</p> <p>3 buildings then that are shown on the left-hand</p> <p>4 side of Exhibit 3. Can you tell me -- if you</p> <p>5 don't mind, I'm going to come around and see if</p> <p>6 I can test your memory a bit.</p> <p>7 A. Uh-huh.</p> <p>8 Q. This building here that I'm</p> <p>9 pointing at, do you know what this is?</p> <p>10 A. Let's see. Go up here and turn</p> <p>11 that corner, back here (indicating) -- back</p> <p>12 here (indicating), there was -- there was a</p> <p>13 place back here (indicating) -- this here</p> <p>14 (indicating) is where they had used bathroom</p> <p>15 toilets and sinks like that.</p> <p>16 Q. The white building there --</p> <p>17 A. And then this white building</p> <p>18 was -- I think it was just a storage building.</p> <p>19 Q. Okay.</p> <p>20 A. And then over -- okay.</p> <p>21 Q. Maybe I'll approach it this way.</p> <p>22 Can you tell me, to your recollection, the</p> <p>23 buildings in this photograph that you believe</p> <p>24 you had a hand or saw others have a hand in</p> <p>25 painting with the paint that came in from</p> <p style="text-align: right;">Page 126</p>	<p>1 off-site.</p> <p>2 A. Yeah.</p> <p>3 Q. Okay. Can you just -- most of the</p> <p>4 buildings appear to be sort of white because</p> <p>5 they show the roofs.</p> <p>6 A. Right.</p> <p>7 Q. Why don't you take that</p> <p>8 bluish-green pen and put an X on the roofs of</p> <p>9 all the buildings that you either had a hand in</p> <p>10 helping paint or you saw others painting while</p> <p>11 you were there.</p> <p>12 A. It would be that one (indicating),</p> <p>13 that one (indicating). Well, this would be all</p> <p>14 one building (indicating). That one</p> <p>15 (indicating) and that one (indicating). And, I</p> <p>16 think, according to this picture, there's --</p> <p>17 there was a building missing over here</p> <p>18 (indicating) that they tore down.</p> <p>19 Q. And that would be a building then</p> <p>20 that would be off this diagram or off this</p> <p>21 photograph at the bottom of the photograph,</p> <p>22 correct?</p> <p>23 A. Right.</p> <p>24 Q. This other building that I'm</p> <p>25 pointing to here (indicating), do you know</p> <p style="text-align: right;">Page 127</p>
<p>1 whether that one was ever painted?</p> <p>2 A. That's -- I mean, according to</p> <p>3 this picture, what I can remember, that is a</p> <p>4 brick building.</p> <p>5 Q. Okay.</p> <p>6 A. And way back when, that was -- I'm</p> <p>7 thinking it was a Chrysler dealership or</p> <p>8 something. But right now, it's just truck</p> <p>9 repairs.</p> <p>10 Q. The ones that you've marked with</p> <p>11 an X on Exhibit 3, were those buildings that</p> <p>12 you had a hand in --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- helping paint?</p> <p>15 A. Oh. Helping -- the buildings,</p> <p>16 painting and maintenance, you know, because he</p> <p>17 owned those buildings so I done a lot of</p> <p>18 maintenance on them also.</p> <p>19 Q. And was the paint that was used on</p> <p>20 those buildings that you've marked paint that</p> <p>21 came into the South Dayton Dump from whatever</p> <p>22 source off-site, would that be used on both the</p> <p>23 exterior of the buildings and the interior?</p> <p>24 A. Right.</p> <p>25 Q. So the interior spaces would be</p> <p style="text-align: right;">Page 128</p>	<p>1 painted with the paint as well?</p> <p>2 A. Sure.</p> <p>3 Q. How many different times can you</p> <p>4 recall painting the buildings that you've</p> <p>5 marked with an X on Exhibit 3? Was it just one</p> <p>6 time or were there some buildings that you</p> <p>7 painted more than one time?</p> <p>8 A. I painted them one time. And I</p> <p>9 had an older brother that painted them also.</p> <p>10 Q. And did Mr. Grillot help out with</p> <p>11 that painting as well?</p> <p>12 A. In which way?</p> <p>13 Q. At the site on any of those</p> <p>14 buildings.</p> <p>15 A. What Mr. Grillot are you --</p> <p>16 Q. Ed.</p> <p>17 A. Not with me, no.</p> <p>18 Q. Do you recall what years this</p> <p>19 might have been when you were --</p> <p>20 A. Oh, this was early.</p> <p>21 Q. Let me finish the question so</p> <p>22 we're not talking over each other.</p> <p>23 A. Okay. I'm sorry.</p> <p>24 Q. I know it's been a while, but bear</p> <p>25 with us.</p> <p style="text-align: right;">Page 129</p>

1 A. Okay.  
 2 Q. Can you tell me over what period  
 3 of time, what years, you were involved in  
 4 painting those buildings that you've marked on  
 5 Exhibit 3?  
 6 A. Fifteen, maybe. Right in that  
 7 period.  
 8 Q. Do you recall how old you would  
 9 have been when you were first involved in  
 10 painting the buildings?  
 11 A. Around fifteen.  
 12 Q. So that would have been around  
 13 1960, something like that for you? You were  
 14 born in '45?  
 15 A. Then it had to have been younger  
 16 than that. Yeah, because --  
 17 Q. Now, would you have been involved  
 18 in the -- strike that.  
 19 I take it you probably would not have  
 20 been involved in the dumping of the quarts into  
 21 the gallons, the gallons into the fives, and the  
 22 fives into the fifty-five gallon drums. Somebody  
 23 else would have done that.  
 24 A. Well --  
 25 Q. Did you do that?

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1 an office in that building.  
 2 Q. He being who?  
 3 A. Cyril. Then he had storage in the  
 4 back part of it.  
 5 Q. Was that the only part where these  
 6 paint canisters --  
 7 A. Yes.  
 8 Q. -- partially filled were stored --  
 9 A. Yeah.  
 10 Q. -- before the paint was used?  
 11 A. Yeah, because that's the only  
 12 building that he used for himself somewhat.  
 13 Q. As part of this painting operation  
 14 on-site, you'd use up as much of the paint as  
 15 you could in painting the building?  
 16 MR. SILVER: Objection. That's not a  
 17 question.  
 18 Q. Is that what you did?  
 19 A. Say it again.  
 20 Q. Used as much of the paint as you  
 21 could --  
 22 A. Oh, sure.  
 23 Q. -- in it -- in other words, were  
 24 there ever -- was there ever a time when you  
 25 ran out of paint to paint a certain building

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1 A. If I was going to paint the  
 2 buildings, I would have done it. But there's  
 3 another process is -- you know, it just went  
 4 on. It was just whoever needed the paint,  
 5 that's when you --  
 6 Q. And where would these quarts, one  
 7 gallons and five-gallon canisters of partially  
 8 filled canisters of paint be stored on-site  
 9 before they were aggregated or used to paint  
 10 the buildings on-site?  
 11 A. Well, this one particular  
 12 building, the very first one here  
 13 (indicating) --  
 14 Q. Why don't you put -- this one here  
 15 (indicating)?  
 16 A. Yeah.  
 17 Q. Why don't you just put a number  
 18 one and a circle next to that X.  
 19 A. (Witness complies with request.)  
 20 Q. And put a circle around it.  
 21 A. (Witness complies with request.)  
 22 Q. So some of it was stored in or by  
 23 that building?  
 24 A. Yeah, because this building here  
 25 (indicating) is where his office was. He had

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1 and you had to go out and buy some paint just  
 2 to finish?  
 3 A. No. No.  
 4 Q. Do you know whether any of the  
 5 Grillot family or the Boesch family ever used  
 6 any of the paint that came into the South  
 7 Dayton Dump from anywhere off-site to paint any  
 8 of their homes or other buildings off-site that  
 9 they owned or were involved with?  
 10 A. I wouldn't have no knowledge --  
 11 Q. Okay.  
 12 A. -- no.  
 13 Q. All right. Now, when you were  
 14 using paint to paint the buildings, were you  
 15 painting out of the --  
 16 A. Like a fifty-gallon drum.  
 17 Q. Just dip your roller, your brush  
 18 in there?  
 19 A. We didn't have rollers back then.  
 20 We used brushes. Didn't have a roller back  
 21 then.  
 22 Q. All right. Do you know what  
 23 happened to the quart, the one gallons, and the  
 24 five-gallon canisters once they had been  
 25 emptied into the fifty-five gallon drums? Do

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34 (Pages 130 to 133)

<p>1 you have personal knowledge of seeing with your 2 own eyes what happened to them? 3 A. They'd go to the dump. 4 Q. Would they be -- Mr. Grillott 5 indicated that generally they would be set out 6 to dry and then put in the dump. Do you recall 7 whether that was done? 8 A. No. That wouldn't be my 9 recollection. 10 Q. So you don't recall one way or the 11 other? 12 A. I said that wouldn't be my 13 recollection. No. 14 Q. Well, what would happen to them? 15 In other words, did you ever see what happened 16 to the canisters after they were dumped -- the 17 smaller size canisters, the ones, the fives and 18 the quarts, did you see what happened to them? 19 A. Well, if I did the stirring, they 20 went to the dump. Now, what Ed did, I don't 21 know. 22 Q. When you said they went to the 23 dump, did you take them to the dump or did 24 somebody else -- 25 A. Oh, sure. That's cleaning up</p> <p style="text-align: right;">Page 134</p>	<p>1 your -- cleaning up the mess. 2 Q. But you were painting out of the 3 fifty-five gallon drum? 4 A. Right. 5 Q. And if the fifty-five gallon drum 6 still had paint in it, you'd just put the cap 7 back on it and wait for the next paint job? 8 A. Well, yeah. If I wasn't done, 9 right. 10 Q. Do you know whether any -- were 11 the quarts and one- and five-gallon canisters, 12 were they metal? 13 A. Yeah. 14 Q. Do you know whether they were ever 15 salvaged out of the dump by Franklin for scrap? 16 A. Franklin -- no. 17 Q. Are you saying it didn't happen or 18 are you saying you don't know? 19 A. Not by Franklin. 20 Q. By someone else? 21 A. If it was in a pile of metal 22 that -- you know, some of them might have got 23 there, but I'd say ninety percent of them got 24 buried. 25 Q. Was part of the -- one of the</p> <p style="text-align: right;">Page 135</p>
<p>1 rules of the road, so to speak, at the dump 2 that whatever came into the dump that could be 3 used, salvaged, or sold was used, salvaged, or 4 sold? 5 MR. SILVER: Objection to form. 6 THE WITNESS: Should I answer? 7 Q. You can answer. 8 A. Okay. You want to know what now? 9 Q. Was sort of one of the rules at 10 the dump, so to speak, that Alcine or Uncle 11 Kenny put into place was look, if there's 12 something that can be salvaged, used, or sold, 13 then it would be salvaged, used, or sold rather 14 than put in the dump? 15 MR. SILVER: Same objection. 16 Q. You may answer. 17 A. Everything that went on the dump 18 that was salvageable was sold. And if some 19 independent threw a dresser on there, we took 20 it. So everything was sold that was 21 salvageable. 22 Q. Are you able to tell us, based on 23 your own knowledge from what you saw at the 24 dump, the number of canisters, one gallon, five 25 gallon or quarts, that may have been disposed</p> <p style="text-align: right;">Page 136</p>	<p>1 of in the dump? 2 A. Impossible. 3 Q. Never saw any shipping documents 4 or dump tickets with respect to any 5 Sherwin-Williams materials; is that true? 6 A. True. 7 Q. I take it you have no knowledge of 8 the weight or volume, liquid volume of any 9 paint material that may have been brought to 10 the dump for disposal? 11 A. No. 12 Q. I take it you don't have any 13 personal knowledge of the types of paints that 14 were brought on-site? 15 A. Well, at that time -- I can't say. 16 Most likely oil-based because that's what they 17 used all back then, was oil-based. 18 Q. I may be done. Let me just finish 19 going through these notes. 20 A. Oh, take your time. 21 Q. Do you recall seeing at the South 22 Dayton Dump an area where a large magnet would 23 be dragged through a pile to aggregate metals? 24 A. Well, not through a pile. They 25 did in the driveway part, you know, keep trucks</p> <p style="text-align: right;">Page 137</p>

35 (Pages 134 to 137)

1 from getting nails in it, but not in the --  
 2 hard to do.  
 3 **Q. You didn't see it anywhere else**  
 4 **than on the driveways?**  
 5 A. I didn't ever see it.  
 6 MR. EDDY: Thanks. I don't have  
 7 anything further.  
 8 MR. SILVER: It's about 12:17. I  
 9 guess it would be interesting to know how many  
 10 other defendants are going to ask questions. Do  
 11 you have a sense of what we're in for?  
 12 MR. COLLIER: Chip Collier for  
 13 Defendant L.M. Berry + Company will have no  
 14 questions.  
 15 MR. HARBECK: Should we talk about it  
 16 off the record?  
 17 MR. SILVER: Oh, sure. Yeah. Let's  
 18 go off the record.  
 19 (Thereupon, an off-the-record  
 20 discussion was had.)  
 21 (Thereupon, a luncheon break was  
 22 had.)  
 23 MR. SILVER: Okay. We're going back  
 24 on the record. We are going to continue the  
 25 questioning. Is everyone on the phone? If you're  
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1 **think you mentioned?**  
 2 A. Yes.  
 3 **Q. Is she from Dayton?**  
 4 A. Mississippi.  
 5 **Q. So is this a vacation for you**  
 6 **folks?**  
 7 A. Well, this time I'm going to make  
 8 it a little vacation.  
 9 **Q. Yes? What are you planning to do?**  
 10 A. Well, I'll be honest with you. I  
 11 come up here for this. And in the meantime, I  
 12 had a daughter that passed and she lived here  
 13 so I'll be going to a funeral Saturday. So I'm  
 14 sort of --  
 15 **Q. I'm sorry --**  
 16 A. -- doing the two of them together.  
 17 **Q. I'm so sorry to hear that. You're**  
 18 **daughter's funeral is this Saturday?**  
 19 A. This Saturday, yes. And then last  
 20 week, last Saturday, I went to a funeral in  
 21 Florida. My sister passed. Two days apart.  
 22 **Q. Well, sorry to hear that. Have**  
 23 **you spoken with your cousin Ed Grillot about**  
 24 **coming here for this deposition?**  
 25 A. No.  
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1 not, don't say anything. All right.  
 2 CROSS-EXAMINATION  
 3 BY MS. KNOWLTON:  
 4 **Q. My name is Leah Knowlton. I'm an**  
 5 **attorney representing the Coca-Cola Company in**  
 6 **this lawsuit. And I wanted to thank you for**  
 7 **spending time with us to -- to talk here today.**  
 8 **Did you expect to see so many lawyers in one**  
 9 **room?**  
 10 A. No.  
 11 **Q. Are you doing okay?**  
 12 A. Oh, I'm doing fine.  
 13 **Q. Okay. I wondered why -- why you**  
 14 **decided to testify here today?**  
 15 A. Because I was asked to.  
 16 **Q. You were asked to.**  
 17 A. Uh-huh.  
 18 **Q. And you decided to drive all the**  
 19 **way from North Carolina just because you were**  
 20 **asked to?**  
 21 A. Yes.  
 22 **Q. Do you often do just what you're**  
 23 **asked to?**  
 24 A. If it's possible.  
 25 **Q. Is your wife here with you, I**  
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1 **Q. Have you spoken with any other**  
 2 **family members about coming here for this**  
 3 **deposition?**  
 4 A. Well, several of them knew that I  
 5 was coming up here for the deposition, yeah. A  
 6 couple of them. Maybe two of my sisters.  
 7 **Q. And do those sisters live here in**  
 8 **this area?**  
 9 A. One does. And one lives in North  
 10 Carolina with me.  
 11 **Q. So you've previously testified**  
 12 **that the operation of the landfill there was**  
 13 **basically a family business?**  
 14 A. Right. Right.  
 15 **Q. Have members of your family gotten**  
 16 **in trouble, legal trouble, over this landfill?**  
 17 A. Members of my family? Well, maybe  
 18 on the Grillot side. I'm sure that's why we're  
 19 here.  
 20 **Q. Do you know what kind of legal**  
 21 **trouble they might have gotten into?**  
 22 A. The only thing I can think of is  
 23 because of pollution of the ground.  
 24 **Q. Have some members of the Grillot**  
 25 **family been sued in lawsuits over this**  
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1 landfill?  
 2 A. I don't know that for sure.  
 3 Q. Have any members of your family  
 4 been sued over this?  
 5 A. No. My family never had nothing  
 6 to do with it.  
 7 Q. Your family had nothing to do with  
 8 the --  
 9 A. The dump operation or side of it.  
 10 The Wendling side of the family.  
 11 Q. So it was mainly the Grillot --  
 12 A. Grillot.  
 13 Q. -- side of the family that --  
 14 A. Right. Right.  
 15 Q. -- operated the dump?  
 16 A. Owned and operated the dump.  
 17 Q. And -- and what did you do to  
 18 prepare for your deposition today?  
 19 A. Drive up here. That's about it.  
 20 Q. Did you talk with Mr. Silver this  
 21 morning?  
 22 A. No.  
 23 Q. Did you talk with Mr. --  
 24 A. Well, we did talk but nothing --  
 25 yeah, we chatted.

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1 A. Yes.  
 2 Q. Did he remind you of anything that  
 3 you should say during your deposition?  
 4 A. Absolutely -- well, he told me  
 5 that we're all stressed out here tonight, we're  
 6 all tired, we're not going to talk about this.  
 7 That's what he said.  
 8 Q. Except for Standard Register?  
 9 A. He might -- he might have  
 10 mentioned -- maybe did I recall about Standard  
 11 Register, but nothing -- nothing about the  
 12 company.  
 13 Q. Did he ask you if you remembered  
 14 anything else about other Defendants, other  
 15 companies?  
 16 A. I don't think so.  
 17 Q. Well, you testified that you saw  
 18 Coca-Cola trucks --  
 19 A. Yes.  
 20 Q. -- come to the South Dayton Dump?  
 21 A. Right.  
 22 Q. Did you personally observe  
 23 Coca-Cola trucks coming to the dump?  
 24 A. Yes.  
 25 Q. And can you describe for me what

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1 Q. What did you talk about?  
 2 A. Soccer. I was telling him about  
 3 the two deaths that I've had. And really, that  
 4 was all.  
 5 Q. Did you talk with him during  
 6 breaks during this deposition --  
 7 A. Here?  
 8 Q. -- today?  
 9 A. Yeah, we talked.  
 10 Q. Did you talk about your testimony  
 11 in the deposition?  
 12 A. None whatsoever.  
 13 Q. And did you have lunch with him?  
 14 A. Yes.  
 15 Q. Did you talk about the deposition  
 16 at all during lunch?  
 17 A. No.  
 18 Q. But you said you spoke with  
 19 Mr. Walsh, Brian Walsh, about this deposition?  
 20 A. Well, the only thing that we  
 21 talked about, he told me when it was, and that  
 22 was, you know, basically it. That was  
 23 basically it.  
 24 Q. And you had dinner with him last  
 25 night?

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1 those trucks looked like?  
 2 A. Somewhat what they look like  
 3 today.  
 4 Q. And were they dump trucks?  
 5 A. No.  
 6 Q. Well, would you describe -- were  
 7 they big?  
 8 A. Not real big. Nothing like a semi  
 9 or nothing like that, no.  
 10 Q. Do you know how many wheels they  
 11 had?  
 12 A. I mean, that type of truck would  
 13 have had to have two in the front and four in  
 14 the back. I mean that would be typically. You  
 15 know, I can't say I counted the wheels, but --  
 16 Q. Now, earlier today you said they  
 17 opened on the sides?  
 18 A. Yeah. That's -- uh-huh.  
 19 Q. Can you describe the kinds of  
 20 openings or are these doors on the side?  
 21 A. No. They were completely open.  
 22 Q. They were completely open?  
 23 A. Yeah.  
 24 Q. So they didn't have doors over  
 25 them?

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37 (Pages 142 to 145)

<p>1 A. No. No. No doors. Sometimes 2 they had like a canvass that came down and 3 covered them but no doors. 4 <b>Q. If the canvass was rolled up so it 5 was open, could you see shelves on the sides?</b> 6 A. Just one bottom shelf. And then 7 they would stack up. 8 <b>Q. So it was an empty -- an open 9 truck -- open on both sides, that is --</b> 10 A. Uh-huh. 11 <b>Q. -- and they just stacked things 12 inside?</b> 13 A. Well, the wooden crates. Yes. 14 <b>Q. Did it have a door on the back of 15 the truck?</b> 16 A. No. 17 <b>Q. Did it have a lift on the back of 18 the truck?</b> 19 A. No. 20 <b>Q. What color was the truck?</b> 21 A. Red. 22 <b>Q. All red?</b> 23 A. Well, other than maybe the writing 24 of Coca-Cola. 25 <b>Q. Where was the writing of</b></p> <p style="text-align: right;">Page 146</p>	<p>1 <b>Coca-Cola?</b> 2 A. Well, you would see it on the 3 front of the door, two-sided doors, and in the 4 back. But not on the side. 5 <b>Q. So the two-sided doors, you mean 6 the passenger door --</b> 7 A. Yeah. 8 <b>Q. -- on each side?</b> 9 A. Right. Exactly. 10 <b>Q. And then on the back?</b> 11 A. Yes. 12 <b>Q. And it was all red?</b> 13 A. To my recollection, all red, other 14 than the writing. 15 <b>Q. What color was the writing?</b> 16 A. To my recollection, it was white. 17 <b>Q. So the truck -- the -- did it have 18 a logo?</b> 19 A. Yeah. That would have been white. 20 Yeah. To my recollection. 21 <b>Q. And was the logo Coca-Cola?</b> 22 A. Yes. 23 <b>Q. Did it say Coca-Cola bottling or 24 what did it say?</b> 25 A. Just Coca-Cola. And then it had</p> <p style="text-align: right;">Page 147</p>
<p>1 like maybe a cap. 2 <b>Q. A picture of a --</b> 3 A. Coke cap. 4 <b>Q. Like a bottle cap?</b> 5 A. Yeah. 6 <b>Q. And all it said was Coca-Cola?</b> 7 A. Right. 8 <b>Q. Was it in cursive writing?</b> 9 A. I can't say. 10 <b>Q. But the sides were open, other 11 than canvas which could be pulled down?</b> 12 A. Correct. 13 <b>Q. Were the trucks always the same 14 that came to the Dayton dump?</b> 15 A. Yes. 16 <b>Q. The Coca-Cola trucks.</b> 17 A. Right. 18 <b>Q. Did you ever see a Coca-Cola truck 19 that was yellow and red?</b> 20 A. Not to my recollection. 21 <b>Q. Now, what period of time were you 22 working at the dump? From what year to about 23 what year?</b> 24 A. Fourteen. I mean, a lot of time I 25 would just go there to just pick through stuff,</p> <p style="text-align: right;">Page 148</p>	<p>1 working at the dump. I can remember when I was 2 about nine, ten, eleven -- about eleven years 3 old is when I painted those buildings. Eleven 4 or twelve. 5 <b>Q. So what's the total period of time 6 that you were around the dump --</b> 7 A. Well, from -- 8 <b>Q. -- either playing, scavenging, or 9 working?</b> 10 A. -- about the time that I was ten 11 or eleven up to -- '65, '70. Early '70s. 12 <b>Q. So about 1965 to 19 -- early '70s?</b> 13 A. Well, no, I said when I was around 14 ten years old. '65 I was twenty. 15 <b>Q. So what's the time period? What 16 are the years?</b> 17 A. I started going around ten or 18 eleven up to sometime in the early '70s. 19 <b>Q. And during that period of time, 20 were the Coca-Cola delivery trucks that you saw 21 at the Dayton dump always the same as you've 22 just described?</b> 23 A. I can't say they was always the 24 same. I mean, I can't -- I can't say there was 25 two different styles of truck or -- I can't</p> <p style="text-align: right;">Page 149</p>

<p>1 tell you that.</p> <p>2 <b>Q. How frequently did the Coca-Cola</b></p> <p>3 <b>delivery trucks come to the dump?</b></p> <p>4 A. It wasn't real frequent. It could</p> <p>5 have been a month, maybe six more months. It</p> <p>6 was like whenever they did like maybe a major</p> <p>7 cleanup or something.</p> <p>8 <b>Q. Okay. And you personally observed</b></p> <p>9 <b>these delivery -- Coca-Cola delivery trucks at</b></p> <p>10 <b>the dump?</b></p> <p>11 A. Have I been there?</p> <p>12 <b>Q. Personally saw them.</b></p> <p>13 A. Yes.</p> <p>14 <b>Q. So you personally were at the dump</b></p> <p>15 <b>when you saw a Coca-Cola delivery truck come?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. And what did you see the Coca-Cola</b></p> <p>18 <b>delivery trucks dump at the dump?</b></p> <p>19 A. Just crates and piles of broken</p> <p>20 bottles.</p> <p>21 <b>Q. Anything else?</b></p> <p>22 A. No.</p> <p>23 <b>Q. Were the bottles in the crates?</b></p> <p>24 A. A lot of them. Tops could be</p> <p>25 broken off of them.</p> <p style="text-align: right;">Page 150</p>	<p>1 <b>Q. Generally, were the bottles all</b></p> <p>2 <b>broken?</b></p> <p>3 A. Yeah. All the time.</p> <p>4 <b>Q. Did you ever see any type of</b></p> <p>5 <b>material dumped by the Coca-Cola trucks?</b></p> <p>6 A. Not other than glass and crates.</p> <p>7 <b>Q. Did you ever see plastic bottles</b></p> <p>8 <b>dumped at the dump, plastic Coca-Cola bottles?</b></p> <p>9 A. We didn't have them back then.</p> <p>10 No.</p> <p>11 <b>Q. What were the crates? Can you</b></p> <p>12 <b>describe those?</b></p> <p>13 A. I can remember them being red.</p> <p>14 That's about the only thing I can -- they held</p> <p>15 like twenty-four bottles.</p> <p>16 <b>Q. Were they wooden?</b></p> <p>17 A. Uh-huh.</p> <p>18 <b>Q. Were these crates that were</b></p> <p>19 <b>damaged?</b></p> <p>20 A. Probably a majority of them,</p> <p>21 uh-huh.</p> <p>22 <b>Q. Did anybody there ever collect</b></p> <p>23 <b>these wooden crates?</b></p> <p>24 A. No.</p> <p>25 <b>Q. So were the roads in the South</b></p> <p style="text-align: right;">Page 151</p>
<p>1 <b>Dayton Dump paved?</b></p> <p>2 A. No. No. Dirt.</p> <p>3 <b>Q. They were dirt roads?</b></p> <p>4 A. Yeah.</p> <p>5 <b>Q. So you saw Coca-Cola delivery</b></p> <p>6 <b>trucks drive into the dump and would -- and</b></p> <p>7 <b>go -- and dump at a certain spot?</b></p> <p>8 A. Wherever he wanted them dumped at.</p> <p>9 <b>Q. So they would drive in and then be</b></p> <p>10 <b>directed to a certain spot?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. Would these trucks drive down a</b></p> <p>13 <b>dirt road to the spot?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And how would they be emptied?</b></p> <p>16 A. Well, mostly -- well, by hand.</p> <p>17 And then a lot of the broken glass would be in</p> <p>18 barrels, the bottles.</p> <p>19 <b>Q. So inside the delivery trucks</b></p> <p>20 <b>there would be broken bottles and crates and</b></p> <p>21 <b>crates of broken bottles?</b></p> <p>22 A. Uh-huh.</p> <p>23 <b>Q. And who unloaded the trucks?</b></p> <p>24 A. The drivers. We never unloaded</p> <p>25 nothing.</p> <p style="text-align: right;">Page 152</p>	<p>1 <b>Q. Did you know any of those drivers?</b></p> <p>2 A. No.</p> <p>3 <b>Q. As I recall, from your earlier</b></p> <p>4 <b>testimony, you said that all the waste was</b></p> <p>5 <b>burned at some point?</b></p> <p>6 A. Right.</p> <p>7 <b>Q. Would these trucks unload at a</b></p> <p>8 <b>certain spot and then that pile of debris be</b></p> <p>9 <b>burned?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. Would the bottles burn?</b></p> <p>12 A. Well, not really. They'd get</p> <p>13 burnt but didn't melt or nothing. But, yeah,</p> <p>14 they got burnt.</p> <p>15 <b>Q. What happened to the bottles after</b></p> <p>16 <b>the fire?</b></p> <p>17 A. They'd get pushed to a -- probably</p> <p>18 another part to level out the ground itself.</p> <p>19 <b>Q. The bottles didn't melt?</b></p> <p>20 A. No.</p> <p>21 <b>Q. Do you know where the Coca-Cola</b></p> <p>22 <b>Bottling Company was in Dayton?</b></p> <p>23 A. At that time? Not at that time,</p> <p>24 no.</p> <p>25 <b>Q. Did you know any of -- other</b></p> <p style="text-align: right;">Page 153</p>

39 (Pages 150 to 153)

1 drivers who drove delivery trucks for  
2 Coca-Cola?  
3 A. No.  
4 Q. During this same period of time,  
5 did you know any other employees of the Dayton  
6 Coca-Cola plant?  
7 A. No.  
8 Q. Were there other dump sites around  
9 Dayton in the '60s and '70s?  
10 A. There could have been some places  
11 that would only take construction material, but  
12 there was no -- there was none around Dayton  
13 that I know of that was considered a dump.  
14 Q. During the 1960s and 1970s, did  
15 you see Coca-Cola delivery trucks driving  
16 around Dayton?  
17 A. Oh, sure.  
18 Q. What color were they?  
19 A. From my recollection, red.  
20 Q. Were the delivery trucks driving  
21 around Dayton for Coca-Cola the same type of  
22 truck that you saw at the dump?  
23 A. Some of them, yes.  
24 Q. Were there other kinds of trucks?  
25 A. No.

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1 A. Yes.  
2 Q. Were there any plastic Coca-Cola  
3 bottles at that time?  
4 A. Not at this time.  
5 Q. Were the bottles delivered to the  
6 supermarket in the same types of crates?  
7 A. Yes. In early -- yes.  
8 Q. And what color were those crates?  
9 A. Red.  
10 Q. Now, for young people who may  
11 eventually read our transcript here, can you  
12 describe the process of a deposit on a glass  
13 bottle at a supermarket?  
14 A. Yeah, because that was -- yeah,  
15 you brought them back, and at that time, I'm  
16 thinking like two cents a bottle.  
17 Q. At what time?  
18 A. Well, in early the '60s. That was  
19 one of my jobs, sorting bottles.  
20 Q. That was one of your jobs --  
21 A. Yes.  
22 Q. -- at the Liberal Supermarket?  
23 A. Yes.  
24 Q. So when a customer bought  
25 Coca-Cola, would they pay a deposit on the

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1 Q. Were there other kinds of  
2 Coca-Cola delivery trucks at that time?  
3 A. In the '60s and '70s, no. I know  
4 today they have semis. No. They were smaller  
5 trucks.  
6 Q. For what period of time did you  
7 work at the Liberal Supermarket?  
8 A. Let's see. Somewhere -- I started  
9 around '62, '6 -- somewhere around '62 or so up  
10 till about '73, '4, '5, right in there  
11 somewhere.  
12 Q. Did you sell Coca-Cola at the  
13 Liberal Supermarket?  
14 A. Yes.  
15 Q. Did Coca-Cola delivery trucks  
16 deliver Coca-Cola products to the supermarket?  
17 A. Absolutely.  
18 Q. Did you know any of the delivery  
19 drivers?  
20 A. No.  
21 Q. Were the delivery trucks the same  
22 type that you saw at the dump?  
23 A. Yes.  
24 Q. Were the bottles sold at the  
25 Liberal Supermarket glass bottles?

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1 bottle?  
2 A. Yeah. You had to pay a deposit.  
3 Q. And when the customer came back  
4 with empty bottles, would they get their money  
5 back?  
6 A. I think it was like two cents a  
7 bottle.  
8 Q. So they would get their money  
9 back?  
10 A. Yeah.  
11 Q. Would they return to the  
12 supermarket broken bottles?  
13 A. No.  
14 Q. So the supermarket wouldn't take  
15 back broken bottles?  
16 A. No.  
17 Q. Did bottles break at the  
18 supermarket?  
19 A. Only if they fell over.  
20 Q. And what would you do with them at  
21 the supermarket once they broke?  
22 A. Clean them up, throw them in the  
23 trash.  
24 Q. And where would the trash go?  
25 A. I couldn't tell you who picked up

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40 (Pages 154 to 157)



1 their trash.  
 2 **Q. So at the South Dayton Dump, did**  
 3 **you ever find bottles that you would return for**  
 4 **a deposit?**  
 5 A. No.  
 6 **Q. Why?**  
 7 A. They were all broken. That's the  
 8 only reason they got to the dump.  
 9 **Q. Okay. So you only had broken**  
 10 **bottles --**  
 11 A. Exactly.  
 12 **Q. -- at the dump? Do you recall in**  
 13 **the 1960s and 1970s any recycling of wood**  
 14 **products?**  
 15 A. As far as the crates?  
 16 **Q. Crates.**  
 17 A. Like if you bought a case of Coke,  
 18 they would give you -- I'm just using that as  
 19 an example --  
 20 **Q. Okay.**  
 21 A. -- and then the crates, you would  
 22 get like maybe ten or fifteen cents if it was a  
 23 good crate.  
 24 **Q. So you had to pay a deposit --**  
 25 A. If you bought a full case.

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1 **Q. So in the early '60s, Coca-Cola**  
 2 **had a game --**  
 3 A. They had games.  
 4 **Q. -- involving something in a cap?**  
 5 A. Something in a cap. Right.  
 6 **Q. Was there a plastic center in the**  
 7 **inside of the cap?**  
 8 A. Yes.  
 9 **Q. And was there something printed on**  
 10 **that?**  
 11 A. Well, yeah, on the inside of the  
 12 cap. Whatever that game was, I don't know if  
 13 it was monopoly type of thing or -- you had to  
 14 collect caps to do whatever this game was, and  
 15 I just can't recall what that game was at that  
 16 time.  
 17 **Q. Did anyone recycle caps to recycle**  
 18 **the metal or sell the metal?**  
 19 A. Well, no, you would -- we would  
 20 look at them while we was down there. Kept  
 21 looking through them, open them, throw them to  
 22 the side if it wasn't a good cap.  
 23 MS. KNOWLTON: Okay. Thank you very  
 24 much.  
 25 CROSS-EXAMINATION

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1 **Q. You paid a fifteen-cent deposit on**  
 2 **the crate?**  
 3 A. It was around that. It could be  
 4 five, ten, but there was a deposit on the  
 5 crate.  
 6 **Q. So the customers would bring the**  
 7 **crates back --**  
 8 A. Sure.  
 9 **Q. -- for return of their deposit as**  
 10 **well?**  
 11 A. Absolutely. Right.  
 12 MS. KNOWLTON: Well, I have no  
 13 further questions.  
 14 **Q. Did you ever see Coca-Cola bottle**  
 15 **caps at the dump?**  
 16 A. They would be on the broken  
 17 bottles.  
 18 **Q. Would you look at the caps for the**  
 19 **game that you were describing?**  
 20 A. Uh-huh.  
 21 **Q. Did Coca-Cola have games during**  
 22 **the 1960s or '70s?**  
 23 A. No, this would have been even  
 24 earlier than that. This would be -- as far as  
 25 I can remember, the caps, very early '60s.

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1 BY MR. McCALL:  
 2 **Q. Mr. Wendling, my name is Duke**  
 3 **McCall. I represent Reynolds & Reynolds**  
 4 **Company. A lot of the questions I have for you**  
 5 **fortunately have already been asked by others,**  
 6 **but I do have some additional follow-up**  
 7 **questions to ask you.**  
 8 And I'd like to start by simply  
 9 reminding you that the same ground rules that  
 10 Mr. Silver covered with you before he started  
 11 asking you questions apply to my questions as  
 12 well.  
 13 A. Explain that, what you mean.  
 14 **Q. You anticipated my question, one**  
 15 **of which is, as I've been watching the**  
 16 **deposition, I notice that you have a tendency**  
 17 **to start answering questions before the**  
 18 **questioner finishes the question.**  
 19 A. That's a bad habit of mine. I'm  
 20 sorry.  
 21 **Q. No, I --**  
 22 A. I do it all the time. Please tell  
 23 me to shut up, listen. That's just a bad  
 24 habit.  
 25 **Q. My wife tells me the same thing.**

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41 (Pages 158 to 161)

1 Now, I -- I would just ask you to try to  
2 pause --  
3 A. Okay. Okay. Before I answer.  
4 I'll do that.  
5 Q. Let me --  
6 A. See.  
7 Q. Let me finish the question.  
8 A. Go ahead. I'm sorry.  
9 Q. Let me finish the question and  
10 then if you can pause just a moment --  
11 A. Okay.  
12 Q. -- to make sure I'm done --  
13 A. Okay.  
14 Q. -- before you start to answer,  
15 that will be appreciated.  
16 A. Okay.  
17 Q. I will try to make my questions as  
18 clear as I possibly can. If it's not clear,  
19 please let me know. Okay?  
20 And I also will ask that you respond  
21 to my questions with the same candor that you did  
22 when you were answering Mr. Silver's questions, in  
23 other words, you be just as honest and forthcoming  
24 with me as you were with Mr. Silver. Can you do  
25 that?

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1 conversations you had with Bill Walsh, right?  
2 A. Well, from that deposition up  
3 till, like I said, maybe a couple of months ago  
4 is when he called and said they may need you.  
5 But in between that time, no.  
6 Q. Let me follow up and try to  
7 clarify. Between the time of your deposition  
8 in July, 2012 --  
9 A. Right.  
10 Q. -- up until a few months ago,  
11 you've not discussed the South Dayton Dump with  
12 anyone?  
13 A. No.  
14 Q. Have you ever discussed the South  
15 Dayton Dump with Ed Grillot after, say, 2000,  
16 the year 2000?  
17 A. After that last deposition? No.  
18 Q. I'm trying to back up a little bit  
19 in time, and I'll try to make my question a  
20 little clearer. Moving back to the year  
21 2000 --  
22 A. 2000?  
23 Q. From the year 2000 to present,  
24 have you ever discussed the South Dayton Dump  
25 with Edward Grillot?

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1 A. Do you want an answer to that?  
2 Q. Yes.  
3 A. I'll give everybody -- I wouldn't  
4 lie for him, you or nobody here.  
5 Q. I appreciate that.  
6 A. So whatever I know is what I know.  
7 What I don't know, I don't know.  
8 Q. You have been asked a series of  
9 questions by some of the other attorneys about  
10 what you did to prepare for your deposition. I  
11 don't want to repeat those questions, but I do  
12 have some follow-up questions for you.  
13 A. Okay.  
14 Q. You testified earlier that you  
15 were deposed in 2012 --  
16 A. Yes.  
17 Q. -- is that correct?  
18 A. Right.  
19 Q. Now, between 2012 and today --  
20 A. Right.  
21 Q. -- have you had discussions with  
22 anyone about disposal at the dump?  
23 A. None whatsoever.  
24 Q. Well, let me clarify a little bit  
25 because I think you talked earlier about

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1 A. No.  
2 Q. And you talked a little bit about  
3 who Edward Grillot is. He's your cousin,  
4 right?  
5 A. Right. Right.  
6 Q. When's the last time you spoke  
7 with Edward Grillot?  
8 A. Spoke to him?  
9 Q. Yes.  
10 A. Last week he called me.  
11 Q. What did you talk about?  
12 A. He was just calling -- he was  
13 sorry about my daughter. That was all.  
14 Q. So it was a personal conversation  
15 about personal issues?  
16 A. Right. Right.  
17 Q. Are you aware that Mr. Grillot,  
18 Edward Grillot, was deposed back in December?  
19 A. This past December?  
20 Q. Yes.  
21 A. I'm trying to think. I think I  
22 might have asked Bill when I seen him, you  
23 know, has he seen Ed, and he said something  
24 about he already had his second one. And that  
25 was all. So I don't know what month it was or

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42 (Pages 162 to 165)

1 anything.  
2 **Q. Have you talked with Edward**  
3 **Grillot about that second deposition?**  
4 A. No.  
5 **Q. And I may have missed it at the**  
6 **beginning, but I'm not sure I heard your full**  
7 **name. What is that?**  
8 A. Michael A. Wendling.  
9 WENDLING.  
10 **Q. And what's your middle name?**  
11 A. Allen.  
12 **Q. How's that spelled?**  
13 A. A L L E N.  
14 **Q. Now, you did testify, I believe,**  
15 **during your prior deposition about some of the**  
16 **legal -- I guess some of your past legal**  
17 **experiences. I think you testified you've been**  
18 **divorced four times. Is that correct?**  
19 A. Yeah.  
20 **Q. You've also filed for bankruptcy,**  
21 **personal bankruptcy; is that right?**  
22 A. I did.  
23 **Q. You testified at your last**  
24 **deposition that you've never been convicted of**  
25 **a crime; is that right?**

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1 can build you a house over here, it's yours for  
2 life, all you have to do is pay for everything.  
3 Fine. I say that's about ten or eleven years.  
4 I had a niece that died in Dayton. I  
5 came up to the funeral. When I got home, there  
6 was an eviction on my door. So I called the  
7 police and asked them what it is and he told me.  
8 He said well, meet me down to the sheriff's  
9 office, I went down to the sheriff's office, I  
10 said I'm so and so and so, what's this all about,  
11 well, your sister wants you out of there. But I  
12 was not arrested.  
13 So I lost ten years of work. Word of  
14 mouth doesn't get it anymore. It's just that  
15 simple.  
16 **Q. Let me ask you some questions**  
17 **about your prior deposition. Do you recall**  
18 **being asked a series of questions about**  
19 **companies that's disposed of waste at the South**  
20 **Dayton Dump during your deposition?**  
21 A. Companies?  
22 **Q. Yes.**  
23 A. Yeah.  
24 **Q. And the testimony you gave in your**  
25 **deposition, your prior deposition was true and**

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1 A. No. No.  
2 **Q. No, you have not?**  
3 A. No.  
4 **Q. Are you the Michael Allen Wendling**  
5 **that lived on -- let me make sure I have the**  
6 **address correct -- Pine Creek Road in North**  
7 **Carolina?**  
8 A. I did live for a time, yes.  
9 **Q. Were you living there in 2012?**  
10 A. No.  
11 **Q. You didn't live there in 2012?**  
12 A. No.  
13 **Q. Are you the Michael Allen Wendling**  
14 **on Pike Creek who was arrested by Officer**  
15 **Steven Wilson for breaking and entering and**  
16 **related offenses?**  
17 A. I wasn't arrested.  
18 **Q. You weren't arrested?**  
19 A. No.  
20 **Q. Tell us what happened.**  
21 A. Well, eleven years ago, my sister  
22 bought a piece of property in North Carolina,  
23 and me and this sister was very close. And she  
24 says to me here's a little spot over here, if  
25 you want to build you a house over here, you

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1 **accurate, to the best of your knowledge?**  
2 A. Oh, absolutely.  
3 **Q. You did not intentionally fail to**  
4 **disclose or mention any company that you**  
5 **recalled of disposing of at the South Dayton**  
6 **Dump in that deposition, did you?**  
7 A. Explain that to me.  
8 **Q. Well, you said that you testified**  
9 **about various companies that disposed of waste**  
10 **at the South Dayton Dump, right?**  
11 A. Right.  
12 **Q. You didn't fail to mention anyone,**  
13 **any company during that deposition that you**  
14 **recalled disposing of at the South Dayton Dump,**  
15 **did you?**  
16 A. I just -- whatever I was asked was  
17 what my recollection was at that time.  
18 **Q. You didn't testify during that**  
19 **deposition about any disposal at the South**  
20 **Dayton Dump by Reynolds & Reynolds, did you?**  
21 A. I don't think I did.  
22 **Q. Now, after your deposition, were**  
23 **you asked to prepare or sign any sort of sworn**  
24 **statement?**  
25 A. No.

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43 (Pages 166 to 169)

Mike Mobley Reporting  
(800) 894-4327

<p>1 Q. I was asking you a few questions 2 about Edward Grillot earlier. How would you 3 compare his involvement with the dump with your 4 own? 5 A. With my own? 6 Q. Yes. 7 A. I'd say early on I was there -- I 8 went to the dump probably more than he did. 9 And then in the latter years, I think he 10 probably started coming -- yeah. 11 Q. Let me ask you a couple of 12 follow-up questions. You said early on you 13 were there more than Edward Grillot. Can you 14 give us a time frame for that? 15 A. Oh, that's when I was young. 16 Well, I can sort of give you a time frame 17 because my uncle passed -- my father passed 18 away, I was nine years old. And -- that was 19 Cyril. And there was tension in the family, 20 and so someone on both sides sort of took on 21 one of the kids to, you know, sort of take care 22 of them. Well, Cyril was the one that -- 23 luckily that -- he sort of catered to me. So 24 that's really why I got there -- you know, that 25 really started -- me started going because of</p> <p style="text-align: right;">Page 170</p>	<p>1 me running with him when I was very young. And 2 so -- 3 Q. What year was that? 4 A. Well, let's see. I was born in 5 '45. '55. Well, I was born in '45. That was 6 nine. That was '54. 7 Q. So this early on period where you 8 were there Mr. Grillot, that was from 1954 till 9 when? 10 A. Probably up into the '60s 11 probably. 12 Q. When you say '60s, can you give us 13 a little more precision? Is it '62, '6 -- 14 A. Yeah, around '6 -- '62 to maybe 15 '65. 16 Q. So after that, is it your 17 testimony that maybe Edward Grillot was at the 18 dump more than you? 19 A. He was probably there -- yeah. 20 Because I started working earlier than he did 21 on the regular job at Liberal. 22 Q. I want to ask you a few follow-up 23 questions about Exhibit 1. In your deposition 24 today, that was marked by Mr. Silver. He 25 walked through that and asked questions about</p> <p style="text-align: right;">Page 171</p>
<p>1 the handwritten notes in that exhibit. He 2 specifically asked you about all the materials 3 that were listed on this Exhibit 1. 4 Does this Exhibit 1 list any ink as 5 being disposed of at the South Dayton Dump? 6 A. Not in 1. No, not in 1. 7 Q. By 1, you're referring to Exhibit 8 1? 9 A. Well, the first two lines there. 10 Q. So my question is, is ink 11 referenced -- 12 A. I don't see ink specified. 13 Q. Anywhere in Exhibit 1? 14 A. No. 15 Q. And I want to make sure the record 16 is clear so forgive me if this sounds like a 17 stupid question. When you say no, you don't 18 see -- 19 A. I don't see ink specified. 20 MR. SILVER: Is he referring to item 21 one or the entire exhibit? 22 MR. McCALL: I just clarified that 23 with my question. 24 Q. My question is, do you see ink 25 mentioned as being disposed of at the South</p> <p style="text-align: right;">Page 172</p>	<p>1 Dayton Dump anywhere in Exhibit 1? 2 A. This is Exhibit 1? 3 Q. Yes, sir. 4 A. Let me read the last page here. 5 (Pause in proceedings.) 6 THE WITNESS: I don't see that 7 specified. 8 Q. Let me also follow up on some of 9 the additional questions that Mr. Silver asked 10 you with respect to Reynolds &amp; Reynolds. 11 I understood you to testify in 12 response to Mr. Silver's questions that Reynolds &amp; 13 Reynolds probably sent ink to the site. Do you 14 recall that testimony? 15 A. Yes. 16 Q. And you referenced drums or 17 barrels of ink or sludge, I think you called 18 it? 19 A. Yeah. Right. 20 Q. Now, you also testified that you 21 couldn't say whether you saw any Reynolds 22 trucks at the dump; is that right? 23 A. That's true. 24 Q. And you also testified that you 25 couldn't say that you saw any names on the</p> <p style="text-align: right;">Page 173</p>

<p>1 barrels or drums of ink or sludge, whatever it 2 was, that you saw at the dump? 3 A. That's true. 4 Q. You also testified that the basis 5 for your belief that Reynolds sent drums to the 6 site was conversations you had with Alcine or 7 Kenny; is that right? 8 A. Yeah. That's where it would come 9 from. 10 Q. Now, you testified in your prior 11 deposition, Mr. Wendling, that a different 12 company sent barrels of ink or drums -- excuse 13 me. Let me try that again. 14 You testified in your prior 15 deposition, Mr. Wendling, that a different 16 company sent barrels or drums of sludge or ink 17 to the site. Do you recall that testimony? 18 A. Yes. 19 Q. You also testified in your prior 20 deposition that you couldn't really say what 21 was in those barrels or drums, right? 22 A. Well, I couldn't say until we cut 23 them open, dumped them. 24 Q. Well, did you have any tests 25 showing you what --</p> <p style="text-align: right;">Page 174</p>	<p>1 A. I had any what now? 2 Q. Let me -- let me try that question 3 again. That was a bad question. 4 You testified in your prior 5 deposition you didn't know what was in the barrels 6 or drums. You didn't really know what this ink or 7 sludge material was; is that right? 8 A. No, I can't say that. I can't say 9 where any one particular barrel came from. 10 Q. How do you know what was in those 11 barrels? Was there a label on the barrel? 12 A. We'd cut them open. 13 Q. And you saw what was in the 14 barrel? 15 A. Cut them open and dump them on the 16 ground. 17 Q. So you saw the material in the 18 barrel dumped on the ground? 19 A. Yes. 20 Q. And what exactly was that 21 material? 22 A. Well, like I said, it could have 23 been a sludge or ink that -- well, it looked 24 like it had gotten old and was real thick and 25 runny like.</p> <p style="text-align: right;">Page 175</p>
<p>1 Q. But you don't really know what 2 this thick runny substance was, do you? 3 A. I guess what sludge is is sludge. 4 I -- I don't know -- what kind of material the 5 sludge came from. 6 Q. Okay. That's my question. 7 A. Yeah. Right. 8 MR. McCALL: Mr. Wendling, I thank 9 you for your time. I think that is all the 10 questions I have, at least for the moment. 11 THE WITNESS: Thank you. 12 MR. McCALL: Thank you. 13 MR. SILVER: Who was our third 14 candidate for lengthy questioning? 15 MR. THUMANN: This is Rob Thumann. I 16 think I might have been third. If you're ready 17 for me, I'll go ahead. 18 MR. SILVER: I think they're ready 19 for you, Rob. 20 CROSS-EXAMINATION 21 BY MR. THUMANN: 22 Q. My name is Rob Thumann. I 23 represent Franklin Iron &amp; Metal Corporation. I 24 believe you provided some testimony earlier 25 today pertaining to my company.</p> <p style="text-align: right;">Page 176</p>	<p>1 I do also believe that you initially 2 said that you first started hanging around the 3 dump or being at the dump in about 1955. Is that 4 correct, sir? 5 A. Yes. 6 Q. And at that time, you said you 7 were ten to eleven years old? 8 A. Yes. 9 Q. Now, prior to being at the dump or 10 hanging around the dump, had you had any 11 familiarity or been aware of Franklin Iron &amp; 12 Metal Corporation? 13 A. No. 14 Q. And your first experience with 15 Franklin Iron then is when you were at the 16 dump; is that correct? 17 A. Yes. 18 Q. And in what time frame -- if you 19 said you first started being at the dump in 20 1955, did you immediately become aware of 21 Franklin Iron &amp; Metal Corporation at that time 22 or was there some time that passed -- 23 A. Probably not. 24 Q. -- before you became -- 25 A. Probably not at that time, no.</p> <p style="text-align: right;">Page 177</p>

45 (Pages 174 to 177)

<p>1 Q. How much time had passed from the 2 time that you first started spending time at 3 the dump until you became familiar with 4 Franklin Iron &amp; Metal Corporation? 5 A. I'd say when I was fourteen, 6 fifteen, sixteen, right in that area. 7 Q. So that puts us into maybe 1960; 8 is that correct, sir? 9 A. Yes. It could have been a little 10 earlier, too. 11 Q. And how was it at that time that 12 you first became familiar with Franklin Iron &amp; 13 Metal Corporation? 14 A. Well, I seen the trucks come and 15 go. That would be the only -- 16 Q. So would -- other than seeing the 17 trucks come and go at the dump, did you have 18 any other occasion to be familiar or deal with 19 Franklin Iron &amp; Metal Corporation? 20 A. At that time, no. 21 Q. At some other time had you had 22 occasion to work with or be familiar with 23 Franklin Iron &amp; Metal Corporation? 24 A. Yes. 25 Q. And what did that entail?</p> <p style="text-align: right;">Page 178</p>	<p>1 A. I used to work for a company right 2 next door to Franklin Iron &amp; Metal where we 3 sent scrap metal over to them. 4 Q. What was the name of that company? 5 A. At that time, it was called Mamco 6 Convertors. 7 Q. You said at that time. Is it 8 called something different today? 9 A. Well, that company is no longer 10 there. 11 Q. Where was that company located 12 specifically? 13 A. Right next door. 14 Q. Do you remember the address? 15 A. No. 16 Q. What did you do for that company? 17 A. I was a maintenance supervisor. 18 Q. And did you have occasions to meet 19 individuals who worked at Franklin Iron &amp; Metal 20 Corporation? 21 A. Yes. 22 Q. What were their names? 23 A. The only name -- and I can't 24 really recall the name -- it would have been 25 the owner.</p> <p style="text-align: right;">Page 179</p>
<p>1 Q. What was his name? You don't 2 remember? 3 A. Bernie or -- I just can't really 4 give you his name. 5 Q. What was the time frame that you 6 worked for this company? 7 A. Probably in the '90s, early '90s. 8 Q. So this would have been 9 significantly after the time period that you 10 were hanging out at the dump; is that correct? 11 A. Oh, yeah. 12 Q. So other than this time when you 13 were working for this company and had occasion 14 to work with Franklin Iron &amp; Metal Corporation, 15 have you had any other dealings or encounters 16 with Franklin Iron &amp; Metal Corporation, other 17 than being at the dump? 18 A. No. 19 Q. So approximately in 1960 when you 20 first became aware that Franklin Iron &amp; Metal 21 Corporation trucks were coming to the dump, how 22 was it that you first noticed them? Were you 23 working there and they showed up? Or tell me a 24 little bit about that, when you first became 25 aware of them?</p> <p style="text-align: right;">Page 180</p>	<p>1 A. From time to time, I would be 2 there and the truck would just show up. 3 Q. Did you say that these were box 4 trucks; is that correct? 5 A. They had a box mounted to the back 6 of the truck. 7 Q. Did they have the name Franklin 8 Iron on them or what did they say? 9 A. Yeah, the truck did. 10 Q. What specifically did the truck 11 say? 12 A. Franklin Iron &amp; Metal, East -- I 13 think it was First Street. 14 Q. You also mentioned that there were 15 some open bed trucks, correct? 16 A. Yes. 17 Q. And did they also have the name 18 Franklin Iron on them? 19 A. Yes. 20 Q. What specifically did they say? 21 A. Same thing. Franklin Iron &amp; 22 Metal, East First Street. I think it was -- 23 Q. I'm sorry. I cut you off? What 24 was the last thing that you said? 25 A. It had the address. And I'm</p> <p style="text-align: right;">Page 181</p>

1 thinking it was like 2000 something East First  
 2 Street.  
 3 **Q. Now, with regard to the box**  
 4 **trucks, do you remember what color they were?**  
 5 A. They had numerous colors of  
 6 trucks. No, not specifically. I can't give  
 7 you a color.  
 8 **Q. Was there one driver, two drivers**  
 9 **or how many --**  
 10 A. Only one.  
 11 **Q. Only one driver?**  
 12 A. Right.  
 13 **Q. And do you know what his name was?**  
 14 A. Oh, no. No.  
 15 **Q. Did you ever have the opportunity**  
 16 **to meet him?**  
 17 A. I can't say that. I mean, I might  
 18 have spoke to one that jumped out of the truck.  
 19 But not meet them, no.  
 20 **Q. You said you might have spoke to**  
 21 **one when he jumped out of the truck.**  
 22 A. I said I might have --  
 23 **Q. I'm sorry. I cut you off again.**  
 24 A. I said I might have spoke to a  
 25 delivery person at any given time, but nothing,  
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1 correct?  
 2 A. Yeah.  
 3 **Q. So early '70s?**  
 4 A. You're right.  
 5 **Q. And then this dump operated into**  
 6 **the '80s, correct?**  
 7 A. Yeah.  
 8 **Q. Now, your testimony was that they**  
 9 **came till the dump closed. But is that not**  
 10 **correct?**  
 11 A. Yes.  
 12 **Q. That was a bad question by me. Do**  
 13 **you have any information that they continued to**  
 14 **come and go at the dump between the time -- in**  
 15 **the early 1970s and the 1980s when you -- when**  
 16 **the dump closed?**  
 17 A. No.  
 18 **Q. No, you don't know; is that**  
 19 **correct?**  
 20 A. Do I personally know that they  
 21 worked till the last day? No, I can't say  
 22 that.  
 23 **Q. All right. So up until the time**  
 24 **in the 1970s, early 1970s, when you stopped**  
 25 **working there, were the Franklin Iron & Metal**  
 Page 184

1 make friends or nothing out of, no.  
 2 **Q. All right. So you don't know --**  
 3 **you don't have any friendship or relationship**  
 4 **with this particular driver from Franklin Iron;**  
 5 **is that correct?**  
 6 A. No, because it would be a lot of  
 7 them.  
 8 **Q. But am I correct -- I thought your**  
 9 **testimony, though, was there was just one**  
 10 **driver that operated for Franklin Iron?**  
 11 A. Oh, my gracious. No. They had a  
 12 lot of trucks.  
 13 **Q. So is it your testimony that there**  
 14 **were multiple drivers for multiple trucks**  
 15 **operating Franklin Iron & Metal Corporation?**  
 16 A. Yes.  
 17 **Q. Now, these trucks that would come**  
 18 **and go that began in the 1960s, were they**  
 19 **coming and going for the duration of your time**  
 20 **at the dump, the full duration?**  
 21 A. They would probably come till the  
 22 day they closed it up, I'm sure, yes.  
 23 **Q. Well, hold on a second. Was your**  
 24 **testimony that you stopped hanging out and**  
 25 **working at the dump in the 19 -- in the 1970s,**  
 Page 183

1 Corporation trucks coming and going up until  
 2 that time?  
 3 A. Oh, yes, until the time I quit.  
 4 Right.  
 5 **Q. In that time frame, other than the**  
 6 **drivers, did you ever have occasion to meet any**  
 7 **other individuals associated with Franklin Iron**  
 8 **& Metal Corporation?**  
 9 A. Well, I just told you earlier, I  
 10 got acquainted with the owner. But not at that  
 11 period.  
 12 **Q. Okay. I'm just talking --**  
 13 A. Go ahead.  
 14 **Q. I'm just talking about the time**  
 15 **when you were at the dump. So between**  
 16 **approximately 1960 and the early 1970s, when**  
 17 **you were at the dump, had you had occasion to**  
 18 **meet or associate with any other individuals**  
 19 **associated with Franklin Iron & Metal**  
 20 **Corporation?**  
 21 A. No.  
 22 **Q. So am I correct that your only**  
 23 **experience or knowledge pertaining to Franklin**  
 24 **Iron & Metal Corporation in that time frame has**  
 25 **to do with you observing trucks coming and**  
 Page 185

1 going at the dump; is that correct?  
 2 A. Right.  
 3 Q. Your testimony was that they  
 4 brought Delco brakes to the dump; is that  
 5 correct?  
 6 A. Brakes and shavings, yes.  
 7 Q. I think your testimony was  
 8 specifically Delco brakes; is that correct?  
 9 A. Yes.  
 10 Q. How did you know that they were  
 11 Delco brakes?  
 12 A. Because I know where they came  
 13 from.  
 14 Q. How did you know where they came  
 15 from?  
 16 A. Well, through talk at the dump,  
 17 from my uncles, either one of them.  
 18 Q. Did you specifically ever observe  
 19 these brakes that were delivered by Franklin  
 20 Iron & Metal Corporation?  
 21 A. I saw them dump them before, yes.  
 22 Q. Did you specifically observe that  
 23 they were Delco brakes?  
 24 A. That would have been hard to --  
 25 all I can say is where they came from. I can't

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1 A. Oh, I've seen them in the trucks,  
 2 yes.  
 3 Q. Was there other things that were  
 4 brought by Franklin Iron & Metal Corporation  
 5 other than brake pads and brake cylinders?  
 6 A. Not to my knowledge, no. There  
 7 could have been shavings but --  
 8 Q. You also testified that the trucks  
 9 were coming daily and nightly; is that correct?  
 10 A. Yes, that's true.  
 11 Q. First of all, how often were you  
 12 at the dump in this time frame, from the 1960s  
 13 to the early 1970s?  
 14 A. Just periodically. I can't say  
 15 two days, three days or -- just quite often is  
 16 all I could pinpoint.  
 17 Q. Is it two to three days per week?  
 18 A. Yeah. Probably. Right.  
 19 Q. So if you're at the plant two to  
 20 three times per week, how often was it that you  
 21 saw Franklin Iron & Metal trucks coming and  
 22 going at the dump?  
 23 A. It was pretty much a daily thing.  
 24 I mean, I pretty much could have seen them at  
 25 any time that I was there.

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1 say who they belonged to.  
 2 Q. So your information pertaining to  
 3 specifically what they were and where they came  
 4 from is specifically information that you  
 5 learned from your uncles and others at the  
 6 dump; is that correct?  
 7 A. Right.  
 8 Q. You also said that Franklin Iron &  
 9 Metal Corporation also brought wood oil  
 10 cylinders; is that correct?  
 11 A. Brought what now?  
 12 Q. Wood oil cylinders? I was trying  
 13 to --  
 14 A. Brake cylinders.  
 15 Q. I'm on the phone, so I'm sorry, I  
 16 might not hear everything.  
 17 A. That's okay.  
 18 Q. So the other thing that you said  
 19 were brought were brake cylinders; is that  
 20 correct?  
 21 A. Yes.  
 22 Q. Okay. And, again, the information  
 23 pertaining to the brake cylinders, was that  
 24 given to you by the others at the dump or did  
 25 you personally observe these brake cylinders?

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1 Q. You mentioned that you were there  
 2 two to three times per week. Was it generally  
 3 during the day that you were there?  
 4 A. Days. Yeah, it would have had to  
 5 have been days. Right.  
 6 Q. Were you ever there at night?  
 7 A. No.  
 8 Q. Your testimony was that they came  
 9 daily and nightly. What's the basis for your  
 10 testimony that they were there at night?  
 11 A. Well, because I know that they had  
 12 a key to the gate.  
 13 Q. So other than the fact that they  
 14 had -- or other than your testimony that they  
 15 had a key to the gate, do you have any other  
 16 knowledge or -- did you ever observe them there  
 17 at night?  
 18 A. I was never there at night.  
 19 Q. So do you have any other knowledge  
 20 or reason to believe that they were there at  
 21 night?  
 22 A. I mean, everybody -- other than  
 23 coming from my uncles that -- you know, that  
 24 they come at night. They got their own key.  
 25 Q. Your uncles told you that they

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1 came at night because they had their own key?  
 2 A. Yes.  
 3 Q. How is it that you knew that they  
 4 had a key?  
 5 A. From information that was circled  
 6 around on the dump by my uncles.  
 7 Q. Did you ever see them use a key to  
 8 get in or out of the gate?  
 9 A. I was never there at nighttime.  
 10 Q. All right. So the only  
 11 information that you have pertaining to whether  
 12 or not they had a key came from your uncles; is  
 13 that correct?  
 14 A. Correct.  
 15 Q. Other than DP&L, did your uncles  
 16 ever discuss whether or not any others had  
 17 keys?  
 18 A. Yes.  
 19 Q. What did they say?  
 20 A. Dayton Power and Light had a key.  
 21 Q. Right. Other than Dayton Power  
 22 and Light.  
 23 A. No.  
 24 Q. Did your uncles ever tell you why  
 25 it was that Franklin Iron & Metal Corporation  
 Page 190

1 did that information come from?  
 2 A. My three uncles.  
 3 Q. Those are the Grillots, correct?  
 4 A. Correct.  
 5 Q. You said maybe they paid for  
 6 scrap. Did they pay for scrap, did they not?  
 7 Tell me more about that.  
 8 A. I can't tell you if they paid for  
 9 scrap. I mean, I had nothing to do with  
 10 anything.  
 11 Q. So your testimony is maybe they  
 12 paid for scrap, but is it really that you just  
 13 don't know?  
 14 A. Well, I never seen the money  
 15 exchanged. But my uncles never gave nothing  
 16 away. That's a fact.  
 17 Q. All right. How often would --  
 18 your prior testimony where you said that you  
 19 saw Franklin Iron & Metal trucks nearly every  
 20 time that you were there, was it both the open  
 21 bed trucks and the box trucks that were there  
 22 almost every time or was it one or the other?  
 23 A. I'm not going to say almost every  
 24 time, but I'm going to say the box trucks  
 25 mostly.  
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1 had a key?  
 2 A. Well, because they had to empty  
 3 their container boxes from the brake plant to  
 4 keep them from getting backed up. So they  
 5 could come whenever they needed to.  
 6 Q. Now, you also testified that  
 7 Franklin Iron & Metal Corporation would pick up  
 8 scrap; is that correct?  
 9 A. Sometime they did, yes.  
 10 Q. And they came in different style  
 11 trucks, correct?  
 12 A. Yes.  
 13 Q. And your testimony there also was  
 14 that they came daily and nightly; is that  
 15 correct?  
 16 A. Yes.  
 17 Q. When they came daily, is it your  
 18 testimony that you observed them there during  
 19 the day?  
 20 A. Yes.  
 21 Q. When they came nightly, did you  
 22 ever observe them there at night?  
 23 A. Never.  
 24 Q. And your information pertaining to  
 25 them coming to pick up scrap at night, where  
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1 MR. THUMANN: Sir, I don't have any  
 2 more questions. Thank you.  
 3 (Thereupon, an off-the-record  
 4 discussion was had.)  
 5 CROSS-EXAMINATION  
 6 BY MR. LEWIS:  
 7 Q. Sir, can you hear me?  
 8 A. Yes.  
 9 Q. Hi. My name is Marty Lewis, and I  
 10 represent Valley Asphalt. I'm sorry if there's  
 11 any difficulty with the connection; but  
 12 hopefully -- if you don't understand a question  
 13 or can't hear it, I'll try to repeat it.  
 14 You had testified in questions to  
 15 Mr. Silver that -- I think you -- you termed it  
 16 recycled blacktop on the property.  
 17 A. Right.  
 18 Q. And there was a mound of it; is  
 19 that correct?  
 20 A. Yes.  
 21 Q. Now, did you ever observe any  
 22 employees of Valley Asphalt putting anything on  
 23 that pile?  
 24 A. No.  
 25 Q. Did you ever observe any --  
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1 anybody putting anything on that pile?  
 2 A. Personally see them, no.  
 3 Q. Okay. Did you ever see --  
 4 personally see anyone take anything away from  
 5 that pile or handle that pile in any manner at  
 6 all?  
 7 A. No.  
 8 Q. Did you ever handle that pile?  
 9 A. No.  
 10 Q. Now, I think you testified that  
 11 your understanding is that the owners of the  
 12 dump allowed the adjacent company, which you  
 13 thought was Valley Asphalt, to put or store  
 14 that recycled blacktop on the property. Is  
 15 that fair?  
 16 A. Yes.  
 17 Q. Is that what you testified?  
 18 A. Yes.  
 19 Q. Now, do you know if there was such  
 20 an agreement?  
 21 A. I'd have to say no.  
 22 Q. Then what was the basis of your  
 23 testimony that you thought that there was?  
 24 Were you assuming that or speculating or did  
 25 someone tell you?

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1 Q. Yes. You testified -- go ahead.  
 2 I'm sorry.  
 3 A. I think it started occurring when  
 4 he was about to close the dump up.  
 5 Q. Who's Curry? I'm sorry.  
 6 A. I didn't use a good word. It  
 7 started to develop when they begin to close up  
 8 the dump.  
 9 Q. Which was when, to your knowledge?  
 10 A. I think we're up in the late '70s  
 11 or early '80s.  
 12 Q. So my question then is, when you  
 13 were there as a child basically and a teenager  
 14 and young adult in the '50s, '60s, early '70s,  
 15 was that pile there?  
 16 A. No.  
 17 Q. So it was not there when you were  
 18 at the dump?  
 19 A. Not a kid, no.  
 20 Q. Okay. Do you know of any analysis  
 21 of exactly what that material is?  
 22 A. Well, it could only be two things.  
 23 It had to be recycled from streets or it had to  
 24 be -- come from the plant for whatever reason I  
 25 wouldn't know. But I would say it was

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1 A. Well, my uncle would not let  
 2 anybody put anything on that dump without some  
 3 type of an agreement with whoever.  
 4 Q. But you never discussed it with  
 5 him; is that correct?  
 6 A. No.  
 7 Q. So that was just based on your  
 8 assumption of your -- of the behavior of your  
 9 uncle; is that correct?  
 10 A. Well, what I seen with my own  
 11 eyes, as far as the pile getting bigger and  
 12 bigger and bigger.  
 13 Q. Right. But you never discussed  
 14 that pile with your uncle or anybody else?  
 15 A. No. No.  
 16 Q. You never observed anyone putting  
 17 anything on the pile, it was just you observed  
 18 that there was a pile?  
 19 A. Yes.  
 20 Q. Okay. You mentioned that the last  
 21 time you drove past the site a few years ago  
 22 you saw that pile out there. Do you recall the  
 23 first time you saw any of what you term to be  
 24 recycled blacktop at the site?  
 25 A. At that site?

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1 ninety-nine percent all recycled.  
 2 Q. But you really don't know what it  
 3 was or why it was there?  
 4 A. Do I know why it was there?  
 5 Q. Is that correct? Do you have any  
 6 personal knowledge?  
 7 A. No.  
 8 MR. LEWIS: Okay. That's the only  
 9 questions I have at this time. Thank you very  
 10 much, sir.  
 11 THE WITNESS: Thank you.  
 12 MR. SILVER: All right. Why don't we  
 13 go to someone in the room.  
 14 CROSS-EXAMINATION  
 15 BY MR. NES:  
 16 Q. Good afternoon. My name is Brad  
 17 Nes. I'm an attorney with Morgan Lewis, and I  
 18 represent Pepsi in this case.  
 19 A. Okay.  
 20 Q. Great. Now, Mr. Wendling, you've  
 21 talked about a gentleman named Edward Grillot?  
 22 A. Cousin.  
 23 Q. How long have you known him?  
 24 A. How long have I known him? As  
 25 long as he's been here on earth.

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50 (Pages 194 to 197)

1 **Q. About how long would that be?**  
 2 A. Well, let's see. I'm sixty-nine.  
 3 And he's probably sixty, maybe, three,  
 4 somewhere around in there, sixty-two,  
 5 sixty-three.  
 6 **Q. And you've know him your whole**  
 7 **life basically?**  
 8 A. Yes.  
 9 **Q. In fact, you spoke to him**  
 10 **recently?**  
 11 A. Yes.  
 12 **Q. Would you say that you're**  
 13 **relatively close?**  
 14 A. No.  
 15 **Q. His family owned the South Dayton**  
 16 **Dump; is that correct?**  
 17 A. Correct.  
 18 **Q. And he worked alongside you for a**  
 19 **number of years?**  
 20 A. No. We never worked -- maybe very  
 21 little side by side. He may come when I'm not  
 22 there or I come when he -- but never side by  
 23 side, no.  
 24 **Q. You testified earlier that you**  
 25 **were doing the same things as he was. Did I**  
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1 **because Pepsi was located up north so Powell**  
 2 **Road landfill was closer to them.**  
 3 MR. SILVER: Objection to  
 4 characterization.  
 5 **Q. Do you have any reason to dispute**  
 6 **that testimony?**  
 7 A. Well, that's his recollection.  
 8 And mine is different.  
 9 **Q. But do you have any specific**  
 10 **reason to dispute that Pepsi was dumping at the**  
 11 **Powell Road landfill?**  
 12 MR. SILVER: Objection. Asked and  
 13 answered.  
 14 THE WITNESS: What does all that  
 15 mean?  
 16 **Q. You can answer. Go ahead.**  
 17 A. I knew the Powell landfill. And  
 18 when I was at the South Dayton Dump doing my  
 19 thing, that landfill wasn't even known at that  
 20 time. So that's the only thing I can say.  
 21 **Q. Do you know where Pepsi was**  
 22 **located during this time?**  
 23 A. To my recollection, not back then.  
 24 But now, I know they're over there off of --  
 25 somewhere off of Troy Street area.  
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1 **misunderstand you?**  
 2 A. Well, yes.  
 3 **Q. So what did you mean by that?**  
 4 A. Well, salvaging whatever we could  
 5 salvage and collecting metal to send up to the  
 6 trailer.  
 7 **Q. So you guys were both doing that?**  
 8 A. Yeah.  
 9 **Q. Is it fair to say that Ed Grillot**  
 10 **knows a lot about the South Dayton Dump?**  
 11 A. Probably as much as I do. But  
 12 since he's younger, he might have a little bit  
 13 more memory what happened in the very latest  
 14 years.  
 15 **Q. Okay. And he was -- since he was**  
 16 **doing the same work as you, he would**  
 17 **essentially see the same things you were seeing**  
 18 **in terms of who was at the dump; is that right?**  
 19 A. I'm sure of it.  
 20 MR. SILVER: Objection as to what he  
 21 was seeing, Mr. Grillot was seeing.  
 22 **Q. Now, we've heard today about**  
 23 **Mr. Grillot having a deposition in this case in**  
 24 **December. He testified that he didn't think**  
 25 **Pepsi dumped anything at the South Dayton Dump**  
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1 **Q. Back in the '50s and '60s, where**  
 2 **was Pepsi?**  
 3 A. I couldn't say back then.  
 4 **Q. Where was the Powell landfill back**  
 5 **in the '50s, '60s?**  
 6 A. They was up off of a road called  
 7 Riprap Road.  
 8 **Q. Now, you've mentioned playing a**  
 9 **game with bottle caps; is that correct?**  
 10 A. Uh-huh.  
 11 **Q. And this would have been back in**  
 12 **the '50s or maybe '60s?**  
 13 A. Uh-huh.  
 14 **Q. And is -- is that a yes? I'm**  
 15 **sorry.**  
 16 A. Yes. Yes.  
 17 **Q. And this game with bottle caps,**  
 18 **you don't remember much detail about it; is**  
 19 **that right?**  
 20 A. I can't remember what the game  
 21 was. No.  
 22 **Q. So you can't really tell us about**  
 23 **the game itself?**  
 24 A. I don't know nothing. I can't  
 25 recall what that game was.  
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1       **Q. Do you recall what year it**  
2 **started?**  
3       A. Oh, I know it was when I was  
4 young. I don't know when it started. I was  
5 probably twelve, thirteen, somewhere around in  
6 there.  
7       **Q. So you started playing this game**  
8 **of collecting the bottle caps when you were**  
9 **twelve or thirteen?**  
10       A. No, that ain't a game that we  
11 played.  
12       **Q. I thought you said you played a**  
13 **game where you collected bottle caps?**  
14       A. It's a game that Pepsi Cola had on  
15 their caps.  
16       **Q. How do you remember that game?**  
17 **Why is that important?**  
18       A. Because I remember going down and  
19 getting the caps.  
20       **Q. So you weren't collecting those**  
21 **trying to play the game?**  
22       A. Oh, no. We was trying to play the  
23 game, but not our game. Pepsi's game.  
24       **Q. Right. Okay.**  
25       A. Yeah.

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1       **Q. Now, you have no recollection of a**  
2 **Pepsi dump truck, per se, correct?**  
3       A. Of a Pepsi dump truck? No, not a  
4 dump truck.  
5       **Q. And you have no recollection of**  
6 **Pepsi dumping plastic bottles?**  
7       A. There wasn't no plastic bottles  
8 back then.  
9       **Q. You don't have any recollection of**  
10 **Pepsi dropping liquids of any kind?**  
11       A. No.  
12       **Q. You have no recollection of any**  
13 **Pepsi drivers specifically?**  
14       A. No.  
15       **Q. You have no recollection of any**  
16 **Pepsi employees specifically?**  
17       A. No.  
18       **Q. And you don't have any specific**  
19 **memory of any particular day that you saw Pepsi**  
20 **dumping, correct?**  
21       A. No.  
22       MR. NES: I'll pass the witness.  
23       MR. SILVER: I'm thinking the witness  
24 is getting a little tired so I think a little  
25 break would be nice for him and the rest of us.

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1       **Q. So you don't remember when you**  
2 **started playing this game, though?**  
3       A. I mean, somewhere around in --  
4 twelve, thirteen. I know I was pretty young.  
5       **Q. And about how many -- how long did**  
6 **you play this game?**  
7       A. Probably as long as the game -- I  
8 mean, as long as the game lasted. It could  
9 have only been six months or a year, something  
10 like that.  
11       **Q. You mentioned sort of talking**  
12 **about Coke and Pepsi at the same time earlier.**  
13       A. Right. Right.  
14       **Q. Do you have any specific**  
15 **recollection of whether it was Coke or Pepsi or**  
16 **both or neither?**  
17       A. I'm saying both.  
18       **Q. Do you remember any differences**  
19 **between these two games?**  
20       A. Oh, yeah. They wasn't the same.  
21       **Q. What were the differences?**  
22       A. Well, one game you might have had  
23 to collect hearts. Another game you might have  
24 had to collect whatever, pictures of a house or  
25 something. I can't really say.

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1       So maybe ten minutes.  
2       (Thereupon, a break was had.)  
3       CROSS-EXAMINATION  
4       BY MR. HARBECK:  
5       **Q. Good afternoon, Mr. Wendling. My**  
6 **name is Bill Harbeck. We met once before. I**  
7 **have some follow-up questions for you.**  
8       A. Okay.  
9       **Q. If you don't understand my**  
10 **question, please let me know.**  
11       A. (Witness nods head up and down.)  
12       **Q. And answer verbally, audibly.**  
13 **Okay?**  
14       A. Yes.  
15       **Q. Don't shake your head or nod your**  
16 **head. You got to say yes or no. Got that?**  
17       A. Okay.  
18       **Q. Okay. And, again, let me**  
19 **finish -- stop. You're doing it right now.**  
20 **Let me finish --**  
21       A. Oh.  
22       **Q. Let me finish my question before**  
23 **you start to answer, and I'll let you finish**  
24 **your answer before I start to ask another**  
25 **question. Okay?**

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52 (Pages 202 to 205)

1 A. That's a deal.  
 2 Q. All right. I have a -- it's  
 3 pretty much background stuff and a couple  
 4 things I just want to clarify with you.  
 5 At one point, in response to  
 6 someone's question, you said when you were nine  
 7 years old, your father Cyril passed away  
 8 A. No. No. No.  
 9 Q. Did you mean your uncle? If you  
 10 said your father, did you mean your Uncle Cyril  
 11 passed away when you were nine?  
 12 A. No.  
 13 Q. Okay. Who died when you were nine  
 14 years old?  
 15 A. My father.  
 16 Q. And what was his name?  
 17 A. Howard Wendling.  
 18 Q. And that's who you were referring  
 19 to. I think you then misspoke and you called  
 20 him Cyril, but you meant your father Howard  
 21 passed away when you were nine year old and  
 22 that brought back some other memories, correct?  
 23 A. Yes.  
 24 Q. When did Cyril pass away?  
 25 A. I'm going to have to say late

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1 A. Yes.  
 2 Q. Okay. And that would have then  
 3 been 1961, correct?  
 4 A. '45 and sixteen?  
 5 Q. Yes.  
 6 A. '61?  
 7 Q. Correct.  
 8 A. Okay. If that's what it is. I'm  
 9 not going to -- okay.  
 10 Q. And you were born in October of  
 11 1945, correct?  
 12 A. Right.  
 13 Q. And then I think at one point, you  
 14 said you stopped working at Liberal's around  
 15 1972, '73. Another time I think you said you  
 16 worked there for fifteen years.  
 17 Let me ask you this. How old were  
 18 you when you stopped working at Liberal's?  
 19 A. I can't tell you. How old was I?  
 20 It was around '72. You do the math.  
 21 Q. Is it your best recollection that  
 22 you then worked at Liberal's until about 1972?  
 23 A. Yes.  
 24 Q. So you would have been at that  
 25 point, about -- I'll do the math, twenty-seven

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1 '90s.  
 2 Q. Okay. Good enough.  
 3 A. Yeah. Late '90s.  
 4 Q. Now, I want to ask you just a  
 5 little bit about your -- the time frame during  
 6 which you worked at Liberal's.  
 7 A. Okay.  
 8 Q. And you've given some different  
 9 start dates and some different end dates so I  
 10 want to try to get in my mind your best  
 11 recollection as to when you first started  
 12 working at Liberal's.  
 13 Let me ask you this first. How  
 14 old were you when you started working at  
 15 Liberal's?  
 16 A. I was born in '45. Add sixteen to  
 17 that.  
 18 Q. Okay. So you started working when  
 19 you were sixteen years old?  
 20 A. Exactly.  
 21 Q. In fact, did you start the day you  
 22 turned sixteen?  
 23 A. The day.  
 24 Q. Happy birthday, here I am at  
 25 Liberal's?

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1 years old?  
 2 A. Yeah.  
 3 Q. And when you first started working  
 4 at Liberal's when you were sixteen, you said  
 5 you were working there on a -- kind of a  
 6 part-time basis?  
 7 A. Right.  
 8 Q. And that would have been about how  
 9 many hours per week on a part-time basis?  
 10 A. Well, started off, it could have  
 11 been maybe like fifteen or twenty --  
 12 Q. Okay.  
 13 A. -- somewhere around in there.  
 14 Q. And then later you said you ramped  
 15 up to about thirty hours per week?  
 16 A. Yes.  
 17 Q. About what year was that?  
 18 A. Well, let's see. That had to have  
 19 been about '63 or so, '64, somewhere around in  
 20 there.  
 21 Q. Okay. Were you working full-time  
 22 at Liberal's -- well, I'll say thirty hours per  
 23 week at Liberal's before you graduated from  
 24 high school or did you wait until after you  
 25 graduated from high school?

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1 A. Well, that's -- that's when I  
2 say -- that's probably when I picked up more of  
3 the hours, after I graduated, '65.  
4 Q. How old were you when you  
5 graduated?  
6 A. Twenty.  
7 Q. You were twenty?  
8 A. Yeah.  
9 Q. So you would have graduated in  
10 1965?  
11 A. '65. Right.  
12 Q. So from that point forward, you  
13 started picking up more hours at Liberal's,  
14 went from maybe ten or fifteen to thirty hours;  
15 is this right?  
16 A. At nineteen, I was probably  
17 full-time. Then at twenty, I was -- I went  
18 into management. So -- at twenty. So it would  
19 have been full-time, plus a lot more hours.  
20 Q. When you say you went full-time at  
21 nineteen, did you mean thirty hours per week or  
22 forty hours per week?  
23 A. Forty plus.  
24 Q. And you were still in high school  
25 at the time? Because you were still in high

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1 really went to full-time, which had to be  
2 around '63 or so.  
3 Q. So if in 1963 you're eighteen  
4 years old, you're working full-time at  
5 Liberal's during the first shift, how were you  
6 going to high school at the same time because  
7 you haven't graduated yet? I'm just trying to  
8 put that together.  
9 A. Okay. I'm thinking you're  
10 probably right. Then I still had to be  
11 part-time up until '65. Okay?  
12 Q. Okay.  
13 A. Now, then from '65 -- I have to  
14 move up a couple more years -- '65 to about --  
15 I went full-time when I graduated. '65.  
16 Q. And is full-time thirty hours a  
17 week or forty hours a week?  
18 A. Well, it was probably thirty  
19 hours. It could have been forty.  
20 Q. Okay.  
21 A. Then '65, about '66, I probably  
22 went straight full-time, forty hours.  
23 Q. Okay. Until -- and you maintained  
24 that work load until you left Liberal's in  
25 about 1972?

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1 school at nineteen.  
2 A. Yes. That's right.  
3 Q. So when did you work at Liberal's?  
4 If you're now working when you turn nineteen,  
5 you're working forty hours a week?  
6 A. Yes.  
7 Q. What was your shift if you had  
8 one?  
9 A. Oh, Lord. It's first shift.  
10 Q. From when to when?  
11 A. Normally like 7:00 to 4:00, 8:00  
12 to 5:00.  
13 Q. How were you going to high school  
14 and working at Liberal's at the same time?  
15 A. I think we're getting confused.  
16 Q. We are. Can you explain it for  
17 me?  
18 A. Okay. I started part-time -- you  
19 said it was '61.  
20 Q. Correct. That's what you said.  
21 We're taking it from sixteen --  
22 A. Part-time, '61.  
23 Q. Right.  
24 A. '65, I was twenty. So now we have  
25 to go back a couple more years till when I

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1 A. Yeah. '72, '73. Yeah.  
2 Q. Where did you work after  
3 Liberal's?  
4 A. After Liberal's? I worked at  
5 Chrysler Air Tint for about three months, got  
6 laid off. Then I went to Kmart Foods.  
7 Q. In the Dayton area?  
8 A. In Dayton. Out off of Salem  
9 Avenue.  
10 Q. How long did you work there?  
11 A. I think I was there for about  
12 maybe five years.  
13 Q. All right.  
14 A. Right around five years.  
15 Q. And where did you go after Kmart?  
16 A. After Kmart -- I was always in the  
17 construction business. So on and off, I've  
18 always had a little business going. So I  
19 probably did that for a little while. And then  
20 I went to a company called Mamco Convertors,  
21 which was next to Franklin Iron & Metal. I was  
22 maintenance supervisor there.  
23 And then from there, they sold the  
24 company out to a company in California, TLC, and I  
25 was maintenance supervisor there. Same building.

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<p>1 And then from there, they closed up, and I was off 2 for a year or so. And then I went to a company 3 out in Brookville called Kerris Reels. We made 4 wood reels for wire. 5 <b>Q. About what year are we in right 6 now when you started working for Kerris Reels?</b> 7 A. It would have been in the '90s 8 surely. And I worked there for about five 9 years. They closed up, and I went to a 10 company, we made -- we prefabbed houses. We 11 built trusses and walls and floors. I can't -- 12 Kerris -- I can't even think -- that was my 13 last -- 14 <b>Q. That was your last job in the 15 Dayton area?</b> 16 A. Yes. Yes. 17 <b>Q. When did you move to North 18 Carolina?</b> 19 A. Well, permanently, probably six 20 years ago. 21 <b>Q. Okay. Did you move there 22 temporarily before that?</b> 23 A. I've always had a house project 24 that I was building for about ten years. 25 <b>Q. Okay. So for the past ten years?</b></p> <p style="text-align: right;">Page 214</p>	<p>1 A. Well, no, it was the last four 2 year. I'm -- started a house four years ago 3 which I'm presently doing now. 4 <b>Q. Okay.</b> 5 A. So prior to that, I was going back 6 and forth for about ten years. 7 <b>Q. So you've been going back and 8 forth -- if I subtract four from 2014, you've 9 been going back and forth to North Carolina, 10 beginning around 2000?</b> 11 A. Well, right now, it was fifteen 12 years. Yeah. Fourteen, fifteen years. 13 <b>Q. Have you ever heard of a company 14 called Moraine Recycling?</b> 15 A. Moraine Recycling? I knew of a 16 company that recycled skids, and that might 17 have been called Moraine Recycling. I can't be 18 sure. 19 <b>Q. That company that you're 20 recalling, was that a company that operated in 21 the same area of the South Dayton Dump?</b> 22 A. Blocks -- not even blocks. It was 23 the first business that started at the end of 24 the block from there to -- yeah. 25 <b>Q. You were now pointing at Exhibit</b></p> <p style="text-align: right;">Page 215</p>
<p>1 <b>2, in terms of where they generally operated?</b> 2 A. They would have been right 3 (indicating). 4 MR. HARBECK: Larry, do you mind if I 5 have him mark on it? 6 MR. SILVER: Go right ahead. 7 <b>Q. Why don't you grab the pen. And 8 for the record, you're pointing to an area 9 that's in the central parcel and it's in what 10 appears to be the southeast edge of the central 11 parcel?</b> 12 A. Southeast, yes. 13 <b>Q. Can you just draw a circle around 14 that facility. Or is it a building?</b> 15 A. Well, it's just land really. 16 <b>Q. It's land?</b> 17 A. They had a trailer or something 18 there if we're talking about the same people. 19 <b>Q. Can you write in there Moraine 20 Recycling?</b> 21 MR. SILVER: He didn't testify that 22 that was Moraine Recycling? 23 <b>Q. Well, I want to make sure I've got 24 it right.</b> 25 MR. SILVER: Yeah. Yeah.</p> <p style="text-align: right;">Page 216</p>	<p>1 <b>Q. This is the entity that you recall 2 doing some recycling of skids?</b> 3 A. I know there was a company there 4 that recycled skids, but I can't tell you 5 specifically that was the name. 6 <b>Q. Okay. Who ran that company?</b> 7 A. I don't know. 8 <b>Q. Was it the Grillots?</b> 9 A. No. 10 <b>Q. Okay. Why don't we just --</b> 11 <b>(Pause in proceedings.)</b> 12 <b>Q. Why don't I have him mark in there</b> 13 <b>just skid recycling.</b> 14 MR. SILVER: That's fine with me. 15 <b>Q. Okay. Put in there skid</b> 16 <b>recycling.</b> 17 A. (Witness complies with request.) 18 <b>Q. Do you have a recollection as to</b> 19 <b>anybody that was affiliated with that skid</b> 20 <b>recycling operation?</b> 21 A. (Witness shakes head back and 22 forth.) 23 <b>Q. You have to answer out loud.</b> 24 A. No. 25 <b>Q. And did they recycle anything, as</b></p> <p style="text-align: right;">Page 217</p>

55 (Pages 214 to 217)

1 far as you could tell, anything besides skids?  
 2 A. No.  
 3 Q. Where do the skids come from?  
 4 A. They probably picked them up all  
 5 over from Dayton. Factories, stores, wherever.  
 6 Q. Did you ever hear of a place  
 7 called skid row at the South Dayton Dump?  
 8 A. That could have been called that,  
 9 too. I don't know.  
 10 Q. Okay. Ed Grillot did talk about  
 11 them taking -- skids would come in, a lot of  
 12 skids would come in from a whole bunch of  
 13 companies --  
 14 A. Right.  
 15 Q. -- and they would try to salvage  
 16 and recycle the good ones, the ones that could  
 17 be either repaired or the good ones. Do you  
 18 remember that?  
 19 A. Yes.  
 20 Q. And that was something that  
 21 occurred with respect to the pallets that came  
 22 in to the South Dayton Dump from all over the  
 23 place?  
 24 A. No.  
 25 Q. They did recycle skids --

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1 skids that could be repaired. So is it your --  
 2 is it your -- are you saying that they didn't  
 3 do that or you just don't know, you just don't  
 4 remember?  
 5 A. My recollection, they did not.  
 6 Q. Okay. Do you remember where any  
 7 of the skids that came into South Dayton Dump  
 8 came from?  
 9 A. I can't point any one company.  
 10 Q. Okay. At that location that you  
 11 marked skid recycling, do you know whether they  
 12 recycled anything else there?  
 13 A. No.  
 14 Q. Have you heard of the entity  
 15 called Broadway Sand & Gravel?  
 16 A. Yes.  
 17 Q. And was that the business that  
 18 started out in the South Dayton Dump area that  
 19 would excavate sand and gravel and sell it to  
 20 other people and create the hole that  
 21 eventually --  
 22 A. Not at that location, no.  
 23 Q. Okay. Where did that -- tell me  
 24 what you know about Broadway Sand & Gravel.  
 25 A. Well, they're -- actually, where

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1 A. Yes.  
 2 Q. -- that came in from other  
 3 companies to the South Dayton Dump?  
 4 A. No. I wouldn't think -- no.  
 5 Q. Okay. I think I just jumbled up a  
 6 whole bunch of questions.  
 7 With respect to -- did you recall  
 8 that there was some recycling of good skids  
 9 that came into the South Dayton Dump? Did that  
 10 happen?  
 11 A. No.  
 12 Q. No, it didn't -- all the skids  
 13 that come into -- do you remember skids coming  
 14 into the South Dayton Dump?  
 15 A. Not a lot but yes.  
 16 Q. Do you remember any good skids  
 17 coming into the South Dayton Dump?  
 18 A. I know skids -- no.  
 19 Q. So as far as you know, they didn't  
 20 recycling or salvage -- they being the South  
 21 Dayton Dump and the Grillots -- as far as you  
 22 know, they didn't do any skid recycling?  
 23 A. No.  
 24 Q. Ed Grillot did talk about them  
 25 doing that in connection with good skids or

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1 this skid recycling place was, there used to be  
 2 a little house there, and that was the office  
 3 of Broadway Sand & Gravel. And they operated  
 4 on the -- I don't know how long you've been  
 5 around here or not, but on the opposite side of  
 6 Dryden Road is a mountain there, hill. That's  
 7 where the old -- up from the old incinerator.  
 8 He owned that whole entire hill. And that's  
 9 where all his sand and gravel came from.  
 10 Q. Okay. When you said on the  
 11 opposite side of Dryden Road, do you mean to  
 12 the east of Dryden Road across --  
 13 A. Well, let's see here. Okay. This  
 14 is the dump here (indicating). And this is  
 15 East Drive. It had to have been up -- I'm  
 16 assuming this is the ramp going to the highway.  
 17 So it would be this whole area over here  
 18 (indicating).  
 19 Q. You're now, again, pointing to  
 20 Exhibit 2. You're kind of off on the  
 21 right-hand edge of Exhibit 2 about a half or  
 22 two-thirds of the way down, that's where you're  
 23 pointing to?  
 24 A. Say it again. I'm pointing in  
 25 this area right in here (indicating).

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1 MR. HARBECK: Larry, do you mind if I  
2 have him mark Broadway Sand & Gravel?  
3 MR. SILVER: Go right ahead.  
4 THE WITNESS: Right in this area  
5 (indicating).  
6 Q. Okay. Just circle it.  
7 A. (Witness complies with request.)  
8 Q. Okay. So you've written on there  
9 Broad Sand Gravel?  
10 A. Broadway.  
11 Q. Okay. Now made it Broadway.  
12 A. And then on this side of the hill,  
13 is Calvary Cemetery. That hill -- all that  
14 gravel backed up to Calvary Cemetery.  
15 Q. When you say on this side of the  
16 hill, you mean further east of Broadway Sand &  
17 Gravel, there was Calvary Cemetery?  
18 A. Yes.  
19 Q. But the Broadway Sand & Gravel  
20 office you said was located in the same area  
21 that you marked as skid recycling?  
22 A. Right. There was a little house  
23 right there.  
24 Q. Was that Broadway Sand & Gravel  
25 operation there during the time frame that you

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1 and them.  
2 A. They told it to -- I mean, Cyril  
3 sold it to Broadway Sand & Gravel.  
4 Q. What about Cyril sell to them?  
5 A. Sand and gravel.  
6 Q. Did Cyril at one time own this  
7 mountain they were excavating?  
8 A. Yeah. He owned the whole mound.  
9 Q. So he sold the operations to this  
10 entity that you can't remember who the owners  
11 were?  
12 A. Yes. But I'll think of it before  
13 we get done here.  
14 Q. If you do, just jump in at any  
15 time and tell me if you remember the owners.  
16 Do you know when he sold that  
17 operation to the unknown owners?  
18 A. He didn't sell them the operation.  
19 He just sold them the gravel off of the hill.  
20 It was their operation, if that makes sense to  
21 you.  
22 Q. Okay. Let me make sure I got this  
23 straight then. Are you saying Cyril owned the  
24 hill?  
25 A. Right.

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1 were at the South Dayton Dump?  
2 A. Yes.  
3 Q. So at least from the time you were  
4 about ten years old until you left in the early  
5 '70s?  
6 A. Yeah.  
7 Q. Okay. Was that Broadway Sand &  
8 Gravel operation, you know, excavating sand and  
9 gravel from this mountain you described and  
10 selling it?  
11 A. They still do, yes.  
12 Q. Even today they do?  
13 A. Yes.  
14 Q. Who ran Broadway Sand & Gravel, if  
15 you know?  
16 A. Oh, I knew the guy's name. I  
17 can't think of it. I can't think of his name.  
18 Q. Okay. Was he somehow connected to  
19 the Grillots or the Boeschies?  
20 A. Friends.  
21 Q. Friends. All right. Did the  
22 Grillots or the Boeschies make any money off of  
23 the Broadway Sand & Gravel operation?  
24 A. They sold -- they sold it to them.  
25 Q. You have to tell me who they is

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1 Q. And he sold them sand and gravel  
2 that was excavated from the hill that they then  
3 sold to other people?  
4 A. Exactly.  
5 Q. So he -- Cyril, did he like -- who  
6 actually did the excavating on the hill?  
7 A. Broadway Sand & Gravel.  
8 Q. So he basically sold them the  
9 right to excavate --  
10 A. Yeah, if you want to call it like  
11 that.  
12 Q. Okay. I'm sorry if I asked you  
13 this.  
14 A. That's okay.  
15 Q. Did Cyril continue to own the area  
16 that they were excavating throughout or did he  
17 at some point transfer ownership of that to  
18 these unknown owners?  
19 A. To my recollection, he still owned  
20 it up to about the time that he died.  
21 Q. And that would have been in the  
22 late '90s, you think?  
23 A. Yeah. And then -- he sold it  
24 to -- he sold it to Broadway Sand & Gravel.  
25 Q. Okay.

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1 A. And I'm trying to think of their  
2 name.  
3 Q. Okay. Keep thinking.  
4 A. It begin with a B.  
5 Q. It wasn't Boesch, though, was it?  
6 A. Huh?  
7 Q. Was it Boesch, B O E S C H?  
8 A. No.  
9 Q. While you were at the South Dayton  
10 Dump, the time frame that we've discussed, was  
11 there ever any excavating activities done in  
12 any area at the dump for the purpose of  
13 excavating sand, gravel, or other materials  
14 that could be sold to the public?  
15 A. From here (indicating)?  
16 Q. From the South Dayton Dump.  
17 A. No.  
18 Q. So if there was any excavating,  
19 that was done before your time? Would that be  
20 fair?  
21 A. Here (indicating)?  
22 Q. Yes, at the South Dayton Dump.  
23 A. Well, it would have had to have  
24 been before my time, but I don't think so  
25 because it's always been what it is. It

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1 that happened after you no longer started going  
2 to the dump?  
3 A. Yes.  
4 Q. So throughout the time frame that  
5 you were at the dump, it was a burning dump?  
6 A. Always.  
7 Q. And that would have been from --  
8 up until you think about at least 1972?  
9 A. Yes. In that time frame.  
10 Q. Okay. The incinerator that was at  
11 the South Dayton Dump, I think you've described  
12 two different kind of --  
13 A. Incinerators.  
14 Q. You described one area where they  
15 dug a hole and put a blower --  
16 A. Yeah.  
17 Q. Could you describe that in a  
18 little bit more detail for me?  
19 A. Well, it was probably a hole the  
20 size of this room, maybe sixteen foot deep, and  
21 then at one end of it, they had a big slab and  
22 big blower about four foot in diameter and it  
23 just blew air down in the pit to get it to burn  
24 faster.  
25 Q. And what would go into that pit?

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1 started as a dump and it's -- so it was --  
2 Q. Okay. And for some reason, I was  
3 under the impression that the dump began as a  
4 dig a pit, sell materials, and then fill the  
5 pit?  
6 A. No. No. No.  
7 Q. It wasn't that?  
8 A. No.  
9 Q. And how do you know that?  
10 A. I just know it.  
11 Q. Okay. Fair enough. Switching  
12 gears a little bit, you've talked about the  
13 South Dayton Dump being what you call a burning  
14 dump.  
15 A. Right.  
16 Q. And by burning dump, you said they  
17 would burn anything and everything that came  
18 into the dump; is that right?  
19 A. Anything and everything.  
20 Q. Do you remember at some point the  
21 county or some other governmental agency saying  
22 all right, no more burning dumps in the county?  
23 A. Well, that would have been at the  
24 time after I left.  
25 Q. Okay. So your recollection is

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1 A. Anything he could burn. Well, no,  
2 I won't say that. Wood. It would just be all  
3 wood. Yeah, he wouldn't dump no liquids.  
4 Q. Okay. And that incineration  
5 operation you just described, when did that --  
6 when was that first, I'll say, constructed?  
7 A. I would say after '65 or right at  
8 that period of time. Around '6 -- around the  
9 time that I was really down there, when I was  
10 little, it wasn't there then. So it had to  
11 have been around sometime around '64, '65.  
12 Q. You had mentioned earlier that an  
13 incinerator wasn't constructed until you  
14 thought the late '60s? Is that a different  
15 incinerator?  
16 A. Probably the last one.  
17 Q. The last incinerator, what are you  
18 describing or talking about there?  
19 A. It was basically the same. It was  
20 a little bit bigger and had a different blower  
21 setup on it. It was basically the same thing.  
22 It was just built a little bit better.  
23 Q. Was it in the same pit?  
24 A. No. No. It was probably maybe  
25 thirty, forty feet back from this original one.

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58 (Pages 226 to 229)

<p>1 Q. Okay. So this is a different 2 location for a different incineration 3 operation? 4 A. Well -- but the other one, you 5 know, it was dismantled. 6 Q. Okay. And the -- so when they 7 built the second one -- let me ask you this. 8 How much later did they built -- you thought 9 that was built in the late '60s? 10 A. Probably. 11 Q. And so there was at least -- if 12 you're right about the first one being there in 13 '65, there was about a four- to five-year gap 14 between them building the first one and 15 building the second one? 16 A. Maybe not quite that long. Maybe 17 three years or so, somewhere around in there. 18 Q. How long did that second 19 incineration operation continue? 20 A. Well, I'm sure till it ended. So 21 it couldn't have been very many years. Maybe 22 three, four, somewhere around in there. 23 Q. Was it on its last legs when you 24 were last at the dump? 25 A. No. I think when they closed the</p> <p style="text-align: right;">Page 230</p>	<p>1 dump, they had to close that up. 2 Q. When they stopped the burning 3 dumps, they also had to stop the incineration 4 operations? 5 A. Yes. 6 Q. And was this incinerator pit 7 different than the pit that you described where 8 they would throw everything and anything in and 9 then burn it and it would slowly build up? Is 10 that different or the same? 11 A. It was the same principle. 12 Q. Same principle. I'm talking about 13 is it the same pit? 14 A. No. No. I told you they -- the 15 first one was dismantled. Then they built a 16 new one about thirty or forty feet from it. 17 Q. Okay. On Exhibit 2, you have put 18 a circle around deepest part dump. 19 A. Yes. 20 Q. That's where you were describing 21 them burning, for example, some telephone 22 poles? 23 A. Yeah. 24 Q. Is this the same pit that you're 25 talking about or is that a different pit?</p> <p style="text-align: right;">Page 231</p>
<p>1 A. No. This is -- this is -- after 2 later years, this was on a higher elevation. 3 It was on the top of the hill behind that. 4 Q. The incinerator you're talking 5 about? 6 A. Yeah. 7 Q. Are you talking about the first 8 pit for the incineration or the second pit for 9 the incineration being behind this -- 10 A. Both of them. 11 Q. Both of them. Why don't you just 12 mark on here and put a circle around the 13 general area -- well, put a circle where the 14 first incinerator was. Then we'll call it the 15 incinerator pit. 16 A. Okay. 17 Q. You know, let's just use blue. 18 A. Okay. There was one here 19 (indicating). Then they would move back. I'm 20 not for sure what this is (indicating). But 21 then they moved back and built another one 22 (indicating). 23 Q. And you think there was a thirty 24 or forty foot gap between those two? 25 A. Yeah.</p> <p style="text-align: right;">Page 232</p>	<p>1 Q. Why don't you call this pit one 2 and pit two, just so we can tell which ones 3 you're talking about. 4 A. (Witness complies with request.) 5 Q. And put an arrow to the first one. 6 A. (Witness complies with request.) 7 Q. Okay. And did these pits -- did 8 either of them have like a structure above 9 them? 10 A. No. They was all open. 11 Q. Just a pit and then a blower on 12 the side of the pit? 13 A. At the top of it. 14 Q. The top of the pit. Up above. 15 Okay. And were they both about the same size? 16 A. Yeah. Uh-huh. 17 Q. When you said about as big as this 18 room, I'm going to do my best at estimating 19 this room, being maybe thirty -- 20 A. Thirty, forty foot. 21 Q. Long? 22 A. Long. 23 Q. And how wide? 24 A. Probably eight to ten foot wide. 25 Q. Okay.</p> <p style="text-align: right;">Page 233</p>

1 A. Maybe about sixteen foot deep.  
 2 Q. Was there any -- a concrete pad on  
 3 the side of the pit or anything like that or  
 4 was it just, you know, a pit that was dug into  
 5 the earth?  
 6 A. On the first one, it was dirt.  
 7 And then on the second one, they did put a pad  
 8 on that one.  
 9 Q. All the way around it or just in  
 10 one spot?  
 11 A. It would be mostly in the front.  
 12 That way the trucks could drive up, turn  
 13 around, and then dump. A lot of it was dumped  
 14 into the pit.  
 15 Q. Okay. Okay. So the pad was a  
 16 spot where the trucks could pull up --  
 17 A. Right.  
 18 Q. -- and then empty their materials?  
 19 A. Right.  
 20 Q. So this wasn't -- never mind. And  
 21 both of these pits that you just described were  
 22 used to burn wood waste that came from a whole  
 23 bunch of customers?  
 24 A. Right.  
 25 MR. HARBECK: That's all I have.  
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1 name is Frank Merrill, and I'm an attorney  
 2 representing the Dayton Power and Light  
 3 Company.  
 4 I asked you some questions in your  
 5 previous deposition. And in this deposition  
 6 today, you testified that Franklin Iron & Metal  
 7 would pick up scrap metal from the South Dayton  
 8 Dump --  
 9 A. Yes.  
 10 Q. -- and haul it away?  
 11 A. Right.  
 12 Q. And you also testified that you  
 13 saw -- you witnessed this happening; is that  
 14 correct?  
 15 A. Actually, trucks going in and out,  
 16 yes.  
 17 Q. With scrap metal?  
 18 A. Yes.  
 19 Q. Leaving --  
 20 A. Leaving.  
 21 Q. -- the South Dayton Dump?  
 22 A. Right.  
 23 Q. Can you describe for me what was  
 24 in the scrap metal?  
 25 A. The biggest thing would be mostly  
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1 Thank you.  
 2 Q. Any -- let me ask you. Any bells  
 3 ringing in terms of who owned Broadway Sand &  
 4 Gravel?  
 5 A. Barnett. That's what I'm looking  
 6 at (indicating). That's -- that gives me --  
 7 that's close and that could even be it.  
 8 Q. You're pointing on Exhibit 2, and  
 9 it says at the bottom area --  
 10 A. Yeah.  
 11 Q. -- Barnett parcels?  
 12 A. Yeah.  
 13 Q. So you think the owners might have  
 14 been named Barnett?  
 15 A. Yeah. Let's see. This is Dryden  
 16 Road. This is East River Road. I'm going to  
 17 call it that, but I could be wrong.  
 18 Q. You're not sure, but that's what  
 19 you think.  
 20 MR. HARBECK: Thank you very much.  
 21 MR. SILVER: Frank, do you want to  
 22 give it a shot?  
 23 CROSS-EXAMINATION  
 24 BY MR. MERRILL:  
 25 Q. Good afternoon, Mr. Wendling. My  
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1 shavings.  
 2 Q. Okay.  
 3 A. That would be the biggest things,  
 4 shavings.  
 5 Q. Do you recall any other pieces of  
 6 metal that you can identify, like this was a  
 7 certain piece that originated from --  
 8 A. From somewhere, no.  
 9 Q. Just scrap metal generally?  
 10 A. Right.  
 11 Q. Was this scrap metal post burning,  
 12 this had been burnt?  
 13 A. A lot of it, if it was shavings  
 14 because it had oil in it, it would have been  
 15 burnt, yes.  
 16 Q. What about if it's nonshaving  
 17 scrap metal?  
 18 A. I just don't see that in my mind.  
 19 I just -- mostly shavings.  
 20 Q. Okay. I believe you testified  
 21 that when waste would come into the South  
 22 Dayton Dump, it would all go to the burning pit  
 23 area.  
 24 A. Yes.  
 25 Q. And if there was any salvaging of  
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60 (Pages 234 to 237)

<p>1 that material, for example, scrap metal, that 2 would be done or conducted after the dumping of 3 the material? 4 A. And burnt. Uh-huh. And cooled 5 down. So it could be days or even a week 6 later. 7 Q. And then someone would go in there 8 from the South Dayton Dump and pick up that 9 scrap metal? 10 A. Yes. 11 Q. Who would go and salvage that 12 scrap metal? 13 A. Well, this Bud that I talked 14 about, he did a lot of it. And then there was 15 an old -- old man. At that time, he must have 16 been sixty, seventy years old. And it was a 17 friend of Cyril's. So he had a little small, 18 maybe ten or twelve foot truck. He would just 19 let him come in and pick it and just sell it 20 and just let him keep the money. 21 Q. And would Bud and this other guy 22 actually physically pick up the metal, no one 23 used some type of equipment like a front-end 24 loader or something like that? 25 A. They didn't have that.</p> <p style="text-align: right;">Page 238</p>	<p>1 Q. So in addition to Franklin Iron &amp; 2 Metal, someone else would come in and take 3 scrap metal away from the South Dayton Dump 4 after the burning; is that correct? 5 A. The two that I mentioned to you. 6 Q. So the two, just so we're clear on 7 the record, is Franklin Iron &amp; Metal and this 8 other older gentleman? 9 A. No. I said there was a Bud that 10 worked at the dump and this older gentleman. 11 Q. I guess my question is, the actual 12 trucks that were receiving the South Dayton 13 Dump with scrap metal, I believe you've 14 testified that at least two types or companies 15 or entities took scrap metal away from the 16 South Dayton Dump and off the property? 17 A. It would have only been Franklin 18 Iron &amp; Metal and these other two gentlemen that 19 took it out in small trucks. 20 Q. Okay. But there was someone in 21 addition to Franklin Iron &amp; Metal? 22 A. These two gentlemen. Yes. 23 MR. MERRILL: No further questions. 24 (Thereupon, an off-the-record 25 discussion was had.)</p> <p style="text-align: right;">Page 239</p>
<p>1 CROSS-EXAMINATION 2 BY MR. SLAUGHTER: 3 Q. Mr. Wendling, I'm Jimmy Slaughter, 4 counsel for Ohio Bell. Thank you for your time 5 today. We're almost done. 6 Is it correct that you never saw Ohio 7 Bell use the South Dayton Dump &amp; Landfill? 8 A. No. No. 9 Q. No, meaning you never saw Ohio 10 Bell at the site? 11 A. Correct. 12 Q. Thank you. Is it correct that you 13 never saw any Ohio Bell waste at the South 14 Dayton Dump? 15 A. No. 16 Q. Meaning correct, you never -- 17 A. Correct. Okay. We'll use that 18 word. 19 Q. Did you ever hear of Ohio Bell 20 using the South Dayton Dump? 21 A. Say it again. 22 Q. Did you ever hear of South Dayton 23 Dump being used by Ohio Bell? 24 A. Correct. 25 Q. Correct, meaning you've never</p> <p style="text-align: right;">Page 240</p>	<p>1 heard? 2 A. Correct. Correct now means no. 3 MR. SLAUGHTER: Thank you very much. 4 MR. SILVER: Anyone else? 5 CROSS-EXAMINATION 6 BY MR. RUDLOFF: 7 Q. Sir, my name is Drew Rudloff. I 8 represent the Dayton Board of Education. 9 Am I correct in my statement that you 10 have no knowledge or information or recollection 11 of Dayton Public Schools disposing of waste at the 12 South Dayton Dump? 13 A. No. 14 Q. I'm correct in my statement? 15 A. You're correct. 16 MR. RUDLOFF: Okay. Thank you. 17 MR. SILVER: Anyone else? 18 REDIRECT EXAMINATION 19 BY MR. SILVER: 20 Q. All right. I have a few. We'll 21 try to wrap up. Hopefully this will be the 22 end. But others might have another chance. 23 How are you doing? 24 A. Oh, I'm sorry. I'm studying this 25 word.</p> <p style="text-align: right;">Page 241</p>

1 Q. But don't doodle on it. Okay?

2 Mike, you were asked by one of the

3 other attorneys whether you ever disposed of

4 anything at the dump or was involved in disposal

5 at the dump. I wasn't quite sure whether you

6 understood that term. You -- we heard a lot of

7 testimony from you about using a hammer and chisel

8 to open drums.

9 A. Right.

10 Q. You did that, right?

11 A. Yes.

12 Q. You mentioned Ed Grillot did that

13 as well, right?

14 A. Yes.

15 Q. And then you would pour liquids

16 onto the ground after you opened the drums?

17 A. Well, whatever was in the drum,

18 yes.

19 Q. Whatever was in it, whether it was

20 sludge or whatever the material was?

21 A. Right.

22 Q. So that -- okay. I just wanted to

23 make sure that that was still -- still the

24 case.

25 Then the Sherwin-Williams attorney

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1 majority. Would that be like nearly all of the

2 paint?

3 MR. EDDY: Objection to the form.

4 Q. How would you characterize the

5 percentage of paint that came to the site as

6 either getting dumped and burned or being used

7 for somebody's painting?

8 A. Ninety-nine percent.

9 Q. Ninety --

10 A. Dumped.

11 Q. Ninety-nine percent dumped and

12 burned?

13 A. Yes.

14 Q. Now, you testified even with

15 regards to the paint that you used to paint

16 buildings at the site, how often did you paint

17 buildings at the site?

18 A. Well, as I say, I painted them all

19 once. Then I had an older brother that painted

20 them also.

21 Q. Painted them once also?

22 A. Yes.

23 Q. And are we talking about the

24 buildings you identified on Exhibit 2 earlier

25 today where you marked the Xs?

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1 asked you a couple of questions about using

2 paints that came into the site, came into the

3 South Dayton Dump & Landfill to paint buildings

4 owned by Cyril on the -- at the location. Do

5 you remember that testimony?

6 A. Yes.

7 Q. And you also mentioned when you

8 were ten or so you got a call from Kenny and

9 your family -- well, not you -- somebody in

10 your family got a call and you came and took

11 some paint and brought it home to paint the

12 basement, right?

13 A. Right.

14 Q. Now, just a couple of clarifying

15 questions. Was that how a great deal of the

16 paint that came to the South Dayton Dump &

17 Landfill was used?

18 A. No.

19 Q. How was -- the majority of the

20 paint that came to the landfill, what happened

21 with that?

22 A. It was dumped.

23 Q. Dumped and burned?

24 A. Burned, yes.

25 Q. Would that be the -- I said

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1 A. Yes.

2 Q. So you mentioned that you'd

3 accumulate paint in a fifty-five gallon drum

4 from smaller containers?

5 A. Yes.

6 Q. And you would do that at the site

7 of the painting?

8 A. Yes.

9 Q. And what happened to the little

10 containers that you poured into the -- into the

11 fifty-five gallon container for painting?

12 A. Threw them on the dump.

13 Q. They were disposed of on the dump?

14 A. Yes.

15 Q. By you?

16 A. If I was the one doing it, yes.

17 Q. If you were the one doing the

18 painting, you'd take those smaller containers

19 and put them on the dump?

20 A. Right.

21 Q. Would they get burned?

22 A. They'd get burned.

23 Q. Now, after you used -- you're not

24 lugging a fifty-five-gallon container around,

25 right?

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1 A. No.  
 2 Q. So how did you get the paint from  
 3 the fifty-five-gallon container to the walls or  
 4 wherever you were painting?  
 5 A. Well, as I said before, this first  
 6 building where he had his office, he had  
 7 storage in the back of that building.  
 8 Q. That would be Cyril?  
 9 A. Cyril. Right. So this is where  
 10 we would put the paint (indicating).  
 11 Q. Put the fifty-five-gallon drums?  
 12 A. The gallons, all this and that.  
 13 And then set the gallon outside the door and  
 14 start mixing it up, and it would stay there  
 15 until we got done with the job.  
 16 Q. So how did you get the paint from  
 17 the fifty-five-gallon drum to the --  
 18 A. To the what?  
 19 Q. To where you were painting.  
 20 A. The drum could have been two or  
 21 three foot away from the walls.  
 22 Q. Now, when you were done painting  
 23 the building or when you finished the painting  
 24 job, what did you do with the fifty-five-gallon  
 25 drum?

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1 of full broken glass. Yes.  
 2 Q. Right on the truck?  
 3 A. Yes.  
 4 Q. And what size were those barrels,  
 5 same? Are we talking about  
 6 fifty-five-gallon --  
 7 A. Yeah. Yeah.  
 8 Q. Now, you talked about other dumps  
 9 around Dayton during the days when you started  
 10 to pick at the site.  
 11 Well, before I go there, let me just  
 12 clarify something else. Your dad Howard died when  
 13 you were nine, right?  
 14 A. Uh-huh.  
 15 Q. And just to clarify, I thought you  
 16 said that Cyril, your uncle, kind of took you  
 17 under his wing at that point?  
 18 A. He did. Right.  
 19 Q. And other uncles took other family  
 20 members under their wing from your family?  
 21 A. Yes.  
 22 Q. Is that about the time when you  
 23 started going to the dump, when Cyril took you  
 24 under his wing?  
 25 A. As my father passed, yes.

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1 A. It was on the dump.  
 2 Q. And did you dump the paint out  
 3 first or did you pick it up first or was there  
 4 not much paint left in the --  
 5 A. Just turn it over in the drain.  
 6 Q. And then the drum itself would go  
 7 to the dump for burning?  
 8 A. It's according to how much might  
 9 have been left in the paint. He could have  
 10 sold that barrel as it was.  
 11 Q. He might have sold the barrel as  
 12 a reconditioned -- to a reconditioner?  
 13 A. Yes.  
 14 Q. Okay. All right. This is just  
 15 for clarification. You mentioned about these  
 16 various buildings that were painted. You said  
 17 he owned the buildings. Were you referring to  
 18 Cyril?  
 19 A. Cyril owned all the buildings.  
 20 Q. Cyril, not Cyril?  
 21 A. Cyril. C Y R I L.  
 22 Q. You mentioned that the Coca-Cola  
 23 trucks that came to the site had barrels of  
 24 broken bottles in them.  
 25 A. Sometimes they would have barrels

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1 Q. In talking about that time period,  
 2 did I hear you say that South Dayton Dump was  
 3 basically the only dump in the area not  
 4 taking -- taking company waste as opposed to --  
 5 A. There was no other dump.  
 6 Q. There was no other dump --  
 7 A. No.  
 8 Q. -- taking company waste?  
 9 A. Any kind.  
 10 Q. Now, what about you mentioned  
 11 construction and demolition waste. Were there  
 12 other locations taking that kind of waste?  
 13 A. Well, that could be true, but I'm  
 14 just talking about items -- if that -- items  
 15 that need to be burnt or destroyed.  
 16 Q. And what about -- we talked about  
 17 garbage, household garbage not coming to South  
 18 Dayton Dump. Were there other locations where  
 19 that went?  
 20 A. You know, I -- I couldn't tell you  
 21 where it went. Back then, I can't see -- as  
 22 the dump -- as the garbage trucks that you --  
 23 as you see today. But that's a good question.  
 24 I can't honestly say where that stuff went.  
 25 Q. You mentioned a county or city

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<p>1 incinerator not too far from South Dayton Dump?</p> <p>2 A. Not back in that time.</p> <p>3 Q. Not back in that time.</p> <p>4 A. No.</p> <p>5 Q. And back in that time, we're</p> <p>6 talking about when you were nine or ten years</p> <p>7 old?</p> <p>8 A. There was what?</p> <p>9 Q. When you started visiting South</p> <p>10 Dayton Dump. I'm trying to get the time period</p> <p>11 straight. I was asking you questions about</p> <p>12 when you started going to South Dayton Dump</p> <p>13 when you were nine or ten years old.</p> <p>14 A. Right.</p> <p>15 Q. It's your understanding that the</p> <p>16 county or city incinerator wasn't around back</p> <p>17 then?</p> <p>18 A. No.</p> <p>19 Q. Okay. All right. You've used the</p> <p>20 word shavings a number of times, and you</p> <p>21 mentioned about shavings that might have oil in</p> <p>22 them. I'm -- can you tell me what you mean by</p> <p>23 shavings just so I'm on the same page?</p> <p>24 A. Well, it would be like if they was</p> <p>25 forming something, it would be on a lathe and</p> <p style="text-align: right;">Page 250</p>	<p>1 as it's turned, the cutter cuts off the metal</p> <p>2 which makes a spiral shaving.</p> <p>3 Q. Uh-huh.</p> <p>4 A. So I mean, I'm sure there's many</p> <p>5 ways that they did that, but that's what</p> <p>6 shavings are.</p> <p>7 Q. And for Franklin Iron &amp; Metal, you</p> <p>8 said their box trucks brought brake pads?</p> <p>9 A. Do what now?</p> <p>10 Q. Their box trucks brought brake</p> <p>11 pads to the South Dayton Dump?</p> <p>12 A. From the Delco plant.</p> <p>13 Q. As well as brake cylinders?</p> <p>14 A. Cylinders, pads, and shoes.</p> <p>15 Q. You also mentioned shavings when</p> <p>16 you were testifying earlier.</p> <p>17 A. Well, when you're working in a big</p> <p>18 plant like that, you got one big dumpster and</p> <p>19 everybody dumping in that dumpster. So it</p> <p>20 could be from the whole factory, actually.</p> <p>21 Q. Now, just to clarify, the Valley</p> <p>22 Asphalt attorney, Marty Lewis asked you some</p> <p>23 questions about the blacktop piles.</p> <p>24 A. Uh-huh.</p> <p>25 Q. And I just wanted to clarify, did</p> <p style="text-align: right;">Page 251</p>
<p>1 you observe that -- you said when you first saw</p> <p>2 the pile, towards the end of the operation of</p> <p>3 the South Dayton Dump. Did you yourself</p> <p>4 observe that pile growing over time?</p> <p>5 A. Oh, definitely. Right. I saw it</p> <p>6 growing.</p> <p>7 Q. All right. And Mr. Harbeck for</p> <p>8 Waste Management asked you a number of</p> <p>9 questions about the incinerators, the first one</p> <p>10 and then the second one.</p> <p>11 Do you know whether either of those</p> <p>12 incinerators received a permit from the county?</p> <p>13 A. (Witness shakes head back and</p> <p>14 forth.)</p> <p>15 Q. You don't know either way?</p> <p>16 A. I would say no, but I can't prove</p> <p>17 it.</p> <p>18 Q. You don't really know either way?</p> <p>19 A. No.</p> <p>20 Q. And then we talked about the</p> <p>21 various operations that took -- Frank Merrill</p> <p>22 asked you about the various operations that</p> <p>23 took salvaged metals away from the site.</p> <p>24 Franklin Iron &amp; Metal, you testified about.</p> <p>25 The older gentleman who had a truck whose name</p> <p style="text-align: right;">Page 252</p>	<p>1 you couldn't remember and then there was Bud.</p> <p>2 Did Bud have a truck?</p> <p>3 A. Well, it belonged to -- he took</p> <p>4 the stuff for Alcine. He was an employee of</p> <p>5 the dump. So it was not his own truck.</p> <p>6 Q. So Bud actually drove Alcine's</p> <p>7 truck and sold the salvaged metals?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. I just wanted to clarify.</p> <p>10 MR. SILVER: Okay. I think that's</p> <p>11 all I have. Anyone else want to follow up?</p> <p>12 RECROSS-EXAMINATION</p> <p>13 BY MR. EDDY:</p> <p>14 Q. When I was asking you questions</p> <p>15 earlier, I believe I asked you the number of</p> <p>16 times you personally observed a box truck from</p> <p>17 Sherwin-Williams that came on-site to drop off</p> <p>18 whatever the contents of the box truck was.</p> <p>19 A. Right.</p> <p>20 Q. And I thought you said it was</p> <p>21 probably less than six times. Do you recall</p> <p>22 that?</p> <p>23 A. Yeah. It wasn't very -- it</p> <p>24 wasn't --</p> <p>25 Q. Okay.</p> <p style="text-align: right;">Page 253</p>



1 A. I would say yes.  
 2 Q. So at the most, over a  
 3 fifteen-year period that you were there at the  
 4 dump between the ages of ten -- let's just say  
 5 ten and twenty-five, and that would be between  
 6 1955 and, let's say, 1970, you saw this happen  
 7 at most six times and probably less where a  
 8 Sherwin-Williams truck came on-site that you  
 9 saw; is that correct?  
 10 MR. SILVER: Objection to form.  
 11 Q. Would that be correct?  
 12 A. Yeah. That would be -- yes.  
 13 Q. And when the trucks that you saw  
 14 on those six or fewer occasions came on, you  
 15 weren't involved in taking off any of the  
 16 canisters or any of the other material that was  
 17 on the truck, you weren't personally involved  
 18 with that, were you?  
 19 A. The only time that I might have  
 20 been involved would be like we had this project  
 21 of painting these buildings.  
 22 Q. Do you have a recollection of  
 23 removing any material from a Sherwin-Williams  
 24 box truck or are you speculating? Do you have  
 25 a recollection of it?

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1 where a Sherwin-Williams box truck came to the  
 2 plant, you weren't there, and you only saw it  
 3 six times. For any other occasions that a  
 4 Sherwin-Williams truck might have come to the  
 5 site, you wouldn't know what was done with  
 6 those canisters or any of the other materials,  
 7 correct?  
 8 A. Would I have know -- I could say  
 9 I'd know what would have been done. But I  
 10 can't say I seen it.  
 11 Q. So you didn't see it. Did someone  
 12 tell you what was done with it or do you know?  
 13 A. No.  
 14 Q. I thought you indicated to me that  
 15 your understanding of what you did see from the  
 16 truck when it was taken off was that it was  
 17 stored in an office area where Cyril had his  
 18 main office on the site.  
 19 A. Well --  
 20 Q. Do you recall that?  
 21 A. Right. Yes. Okay.  
 22 Q. And I thought that I had you  
 23 mark -- or I think you marked on exhibit --  
 24 A. It would be --  
 25 Q. Hold on. Just so we can be clear

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1 A. I have a recollection of -- well,  
 2 I have a recollection of looking in the back of  
 3 the trucks and seeing all these paint cans.  
 4 Now, do I have a recollection of picking it  
 5 up --  
 6 Q. Right.  
 7 A. No.  
 8 Q. And I also asked you if you could  
 9 estimate for me the number of five gallon, one  
 10 gallon, quart canisters that came off and you  
 11 said there was no way for you to do that; is  
 12 that correct?  
 13 A. That's correct.  
 14 Q. All right. So any of the --  
 15 you're not aware of any of the other occasions  
 16 that Sherwin-Williams came out there to dump,  
 17 other than what you've observed? Is that a  
 18 fair statement?  
 19 A. Well, sure.  
 20 Q. So you won't know what was done  
 21 with those canisters of material that came off  
 22 of a Sherwin-Williams box truck on any  
 23 occasions that you weren't there, correct?  
 24 A. Say it again.  
 25 Q. In other words, for any occasions

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1 for the record, I think on Exhibit 3, you were  
 2 showing me one of the buildings where Cyril had  
 3 an office, and I think it was this building  
 4 (indicating); is that correct?  
 5 A. Yes.  
 6 Q. It's the building that you've --  
 7 on Exhibit 3 that you've marked an X and then  
 8 there's a number one above the X that is  
 9 circled, correct?  
 10 A. Yes.  
 11 Q. And I thought what you were  
 12 telling me before is that any of the materials  
 13 from the Sherwin-Williams box truck on the  
 14 occasions that you did see a Sherwin-Williams  
 15 box truck there were removed and stored in this  
 16 area --  
 17 A. No.  
 18 Q. -- by Cyril's office?  
 19 A. No.  
 20 Q. Were you mistaken then?  
 21 A. No. We've got two different  
 22 things going here.  
 23 Q. Let's see if we can't straighten  
 24 them out. There were canisters of paint,  
 25 partially filled canisters of paint that were

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<p>1 stored in that building where Cyril had his 2 office, either in the building or adjacent to 3 it; is that correct? 4 A. Yes. 5 Q. And was that stored there over a 6 period of time? 7 A. It was there long enough for me to 8 get whatever amount that we needed. 9 Q. Okay. The six or fewer times that 10 you actually saw material come in on a 11 Sherwin-Williams box truck, did you see it be 12 disposed of? Do you have a recollection of it? 13 A. Did I follow the truck down to -- 14 Q. Did you see what happened to it 15 it? That's what I'm trying to get from you. 16 A. Only thing that I could say I saw 17 is when the truck pulled in, Kenny checked it 18 and it went to the dump. Did I follow it down 19 or -- I can't recollect where -- no. 20 Q. Did you follow it down -- 21 A. No. No. 22 Q. -- to your recollection? 23 A. No. 24 Q. Did you see what any of the other 25 employees of the dump did? Did they remove the</p> <p style="text-align: right;">Page 258</p>	<p>1 canisters? 2 A. There wasn't any employees, per 3 se, that worked at the dump, other than this 4 Bud. 5 Q. Did Bud have anything to do with 6 the canisters off the Sherwin-Williams truck? 7 A. No. 8 Q. Now, you indicated in response to 9 one or a couple of Mr. Silver's questions that 10 you didn't think that a lot of the paint that 11 came into the site was used to paint buildings. 12 Do you recall your -- 13 A. I don't know what it was used for. 14 Q. You -- maybe we're 15 miscommunicating here a little. 16 A. Okay. 17 Q. You were asked by Mr. Silver 18 whether -- what percentage or whether a lot of 19 the paint that came into the site from whatever 20 source was actually used in the painting of the 21 buildings. 22 A. Well, it wasn't, no. 23 Q. And I thought you indicated that 24 not a lot of it was used. I think those were 25 your words.</p> <p style="text-align: right;">Page 259</p>
<p>1 Is it -- what is the basis, from your 2 own observation, that you have for making that 3 statement? 4 MR. SILVER: Objection to 5 characterization of the statement. 6 Q. What's the basis for the -- that 7 statement that you made? 8 MR. SILVER: Objection. 9 THE WITNESS: To my recollection, I'm 10 the only one, other than my brother, that used 11 that paint to do anything with it. 12 Q. Well, I thought you told me when I 13 asked you questions earlier today, I thought 14 you said that you painted these buildings that 15 you marked off for me on two occasions. Was 16 there just one occasion that you -- 17 A. I said I painted them once and my 18 older brother painted them once. 19 Q. And your older brother, his name? 20 A. His name was Bill Wendling. 21 Q. And what about any painting that 22 was done by Ed Grillot or any of the Grillot 23 family. Did you ever see that? 24 A. I never seen them paint them. 25 Q. Are you saying he didn't because</p> <p style="text-align: right;">Page 260</p>	<p>1 you never saw him doing it? 2 A. Well, I can't -- I never seen him 3 paint it. 4 Q. Okay. So, again, what is the 5 basis for your saying that most of the paint -- 6 not a lot of the paint was used to paint 7 buildings? Is it only because you didn't think 8 you used a lot of paint to paint the buildings 9 on the occasion that you did? 10 A. No. I'm comparing of all of the 11 paint that ever came to the dump, I might have 12 used one tenth of a percent of what could have 13 came. Very minimal. 14 Q. Well, when you say what could have 15 came, I'm talking about what you saw that came. 16 You only saw -- 17 A. You're confusing me. 18 Q. You only saw six occasions or less 19 when a Sherwin William box truck came? 20 A. Correct. 21 Q. Are you aware of paint coming into 22 the dump from any other source? 23 A. No. 24 Q. So you only saw the 25 Sherwin-Williams trucks, right?</p> <p style="text-align: right;">Page 261</p>

66 (Pages 258 to 261)

1 A. Yes.  
 2 Q. All right. And you saw that less  
 3 than six times, right?  
 4 A. Well, that's the number we'll use.  
 5 Yes.  
 6 Q. So you're saying just on those --  
 7 whatever was on that truck, on the six or less  
 8 occasions that you saw it, that not a lot of  
 9 that paint was used? Is that what you were  
 10 saying on those six occasions or less?  
 11 A. Like I said, it's very little of  
 12 it.  
 13 Q. So when you made that estimate,  
 14 were you referring to the canisters of paint  
 15 that you saw on the six or less occasions that  
 16 you saw the Sherwin-Williams box truck? Is  
 17 that what you were referring to --  
 18 MR. SILVER: Objection.  
 19 Q. -- in that estimate?  
 20 MR. SILVER: Objection to form.  
 21 Objection to mischaracterizing his testimony.  
 22 Continuing objection.  
 23 MR. EDDY: You may have one.  
 24 Q. You can answer.  
 25 A. I'm saying out of all of the paint  
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1 inside a circle.  
 2 A. (Witness complies with request.)  
 3 Q. You say that was a metal  
 4 fabrication building that Cyril owned. The  
 5 building right next to it, on the right of the  
 6 photograph, what was that building?  
 7 A. I can't recall what was in that  
 8 building.  
 9 Q. All right. And the building --  
 10 let's put a three there just so we can continue  
 11 on.  
 12 A. (Witness complies with request.)  
 13 Q. Do you know what building number  
 14 three was?  
 15 A. I can't recall.  
 16 Q. The building to the right of that,  
 17 do you know what that building was or what it  
 18 was used for?  
 19 A. This one (indicating), there was a  
 20 company in there that rented scaffolding.  
 21 Q. Do you recall the name of the  
 22 company?  
 23 A. No.  
 24 Q. Why don't you put a four on that  
 25 building and circle it?  
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1 that I've ever seen come to the dump in those  
 2 six trucks or whatever, I used a very minimal  
 3 amount.  
 4 Q. Okay.  
 5 A. Now, if I could --  
 6 Q. Were you with your brother when he  
 7 painted the buildings?  
 8 A. He painted after I did.  
 9 Q. Do you know how much paint he  
 10 used?  
 11 A. Oh, he had to use I'm sure about  
 12 the same as I did.  
 13 Q. If you could -- did he paint the  
 14 same buildings that you painted?  
 15 A. He painted the same buildings.  
 16 Q. And what was this building here  
 17 that I'm pointing out on Exhibit 3 at the  
 18 bottom of the left-hand side? This building  
 19 right here (indicating)?  
 20 A. One, two, three. That building  
 21 was a metal -- the guy had a metal fabrication  
 22 place there. He fabricated things.  
 23 Q. Was that Cyril's building?  
 24 A. Yeah. He owned all of those.  
 25 Q. Let's mark that with a number two  
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1 A. (Witness complies with request.)  
 2 Q. And then the building right to the  
 3 right of it that you've got the number one in a  
 4 circle, what was the name of that building, if  
 5 it had a name, where Cyril had his office?  
 6 A. This -- what do you want to know  
 7 now?  
 8 Q. What was that building used for?  
 9 A. Half of it, along with his office,  
 10 was Rankin & Howard.  
 11 Q. What was Rankin & Howard.  
 12 A. They sold radio components and  
 13 speakers and that type of stuff.  
 14 Q. All right.  
 15 A. And then on the other half of it,  
 16 it was called Gem City Painting.  
 17 Q. Okay. Got you. I've seen that.  
 18 Now, the building to the right of the  
 19 building that has the number one in the circle, do  
 20 you recall what that building was used for?  
 21 A. Well, originally, it was -- of  
 22 course, I wasn't around then, but I was told  
 23 that it was a Chrysler dealership. But right  
 24 now, it's a big semi truck repair.  
 25 Q. Let's put a number five and a  
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<p>1 circle on the roof of that building in this 2 exhibit. 3 A. (Witness complies with request.) 4 Q. This building up here (indicating) 5 which I asked you about before, and I'm just 6 following up, I think you indicated to me you 7 weren't sure what that building was used for; 8 is that right? 9 A. I think it was just a storage 10 building and most -- well, I say it belonged to 11 the asphalt place. There was nothing from here 12 (indicating) all the way back to the asphalt 13 place. 14 Q. Let's just put a six, numeral six, 15 and a circle there so we know what we're 16 referring to. 17 A. (Witness complies with request.) 18 Q. Mr. Grillot, when he was deposed 19 in December, indicated that there were ten 20 buildings, ten buildings on the property that 21 he and others over a number of years painted 22 with paint that came into the dump from a 23 number of sources. 24 Is your understanding of the 25 buildings that the paint was used on different Page 266</p>	<p>1 from that or is it possible that there were 2 additional buildings on the site that were painted 3 by Grillot or other family members that you're not 4 aware of? 5 MR. SILVER: Objection. Calls for 6 speculation. 7 THE WITNESS: No, I know that other 8 than one, two -- yeah, one, two, three, four 9 buildings that he had there, further on down, he 10 did own some buildings there, but they had -- we 11 never fooled with those buildings. 12 Q. You didn't? 13 A. No. Just the ones that were right 14 here connected to the dump (indicating). 15 Q. You didn't paint those buildings. 16 Are you saying that Mr. Grillot did not -- 17 those other buildings on down the road that 18 aren't shown on that or do you know? 19 A. I don't know. 20 Q. Now, you referred to when you were 21 painting, doing your painting, you referred to 22 drawing the paint out of a fifty-five-gallon 23 drum. Do you recall that testimony? 24 A. Yes. 25 Q. Would you actually use it -- did Page 267</p>
<p>1 you dip a one- or five-gallon pail into it to 2 get paint out of the fifty-five-gallon drum, 3 then paint out of that or were you dipping your 4 brush in the fifty-five-gallon drum and 5 painting the side of the building? 6 A. If the drum was full, it would go 7 to a five-gallon bucket. Then when we started 8 painting, it would go down it a gallon bucket. 9 So you keep -- 10 Q. Out of the five? 11 A. Yeah. So you keep working that 12 way. 13 Q. You talked about at the end of 14 that job, if there was any paint left in the 15 fifty-five-gallon drum, would it be saved? 16 A. No. 17 Q. I'm talking about what you did 18 when you painted the building on the -- the 19 buildings on the one occasion that you did it, 20 did you save that drum and what was left in it 21 or did you dump it? 22 A. Dump it because there wouldn't be 23 enough there for any use. 24 Q. But that would have happened on 25 one occasion? Page 268</p>	<p>1 A. On my occasion. I can't say about 2 my brother's. 3 Q. Do you recall on the one occasion 4 when you turned that drum over how much was 5 left in the drum? 6 A. No. I don't remember that. 7 Q. Was it -- you have no idea? 8 A. It could have been a gallon, a 9 quart. Five gallon. 10 Q. Do you recall where you drained 11 that drum? 12 A. Uh-huh. 13 Q. Where? 14 A. Down inside this circle 15 (indicating). 16 Q. You're referring now into the -- 17 exhibit -- just for the record, Wendling 18 Exhibit 2 on the central parcel -- 19 A. Yeah. 20 Q. -- the green circle -- 21 A. Right. 22 Q. -- that you've made there -- 23 A. Right. 24 Q. -- that's where you did it that 25 one occasion? Page 269</p>

1 A. Right.  
 2 MR. EDDY: Thank you. Nothing  
 3 further.  
 4 **RE CROSS-EXAMINATION**  
 5 **BY MR. THUMANN:**  
 6 Q. Just briefly. Sir, when  
 7 Mr. Silver was asking you questions just here  
 8 recently, you seemed to indicate that Franklin  
 9 Iron & Metal Corporation brought loads directly  
 10 from AC Delco which contained anything and  
 11 everything that may have been in their  
 12 dumpsters.  
 13 But I believe when I was asking you  
 14 questions, you testified that you had no firsthand  
 15 knowledge as to where those trucks from Franklin  
 16 Iron & Metal directly came from. Is that correct?  
 17 A. No.  
 18 Q. What's no? Tell me what no means.  
 19 A. No means I do know.  
 20 Q. Okay. Tell me what you know.  
 21 A. I know that those trucks came from  
 22 Delco Products.  
 23 Q. And how do you know that?  
 24 A. Well, for one of what was in the  
 25 trucks and for, two, it was just a general

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1 specifically observe the shavings that you  
 2 referred to in the trucks?  
 3 A. Yes.  
 4 Q. Okay. Is there anything else that  
 5 you specifically observed in the truck?  
 6 A. Oil within the shavings.  
 7 Q. All right. Now, when you made  
 8 these observations of what was contained within  
 9 the trucks, where were the trucks located?  
 10 A. Sometime -- mostly at the front  
 11 gate or --  
 12 Q. Did you ever --  
 13 MR. SILVER: Well, let him finish.  
 14 THE WITNESS: Or I could have been  
 15 down at the dump where they was going to end up  
 16 with -- I could have, you know, most likely been  
 17 there at the time the truck came up and dumped the  
 18 stuff.  
 19 Q. Well, you said you could have been  
 20 and you most likely. Do you remember observing  
 21 the Franklin Iron & Metal truck inside the gate  
 22 at the dump?  
 23 A. Yes.  
 24 Q. All right. And do you  
 25 specifically remember the trucks actually

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1 everybody knew where those particular trucks  
 2 came from.  
 3 Q. Do you know whether or not the  
 4 Franklin Iron & Metal Corporation trucks made  
 5 other stops between AC Delco and when they came  
 6 to the dump?  
 7 A. No.  
 8 Q. Again, no, you don't know either  
 9 way or no, they didn't?  
 10 A. I say I did because I couldn't --  
 11 I didn't follow the truck. So I don't know.  
 12 Q. Okay. Now, the information that  
 13 you had that they came from AC Delco, you said  
 14 first is based on what you observed in the  
 15 truck; is that correct?  
 16 A. What I would observe in the truck,  
 17 yes.  
 18 Q. And specifically, I think you  
 19 testified -- just tell me. Specifically what  
 20 did you observe in the Franklin Iron & Metal  
 21 truck?  
 22 A. Brake shoes and pads. Shoes and  
 23 pads were connected together. Brake cylinders.  
 24 And brake shoes.  
 25 Q. All right. And did you

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1 dumping their loads?  
 2 A. From time to time, yes.  
 3 Q. Where specifically were the loads  
 4 dumped?  
 5 A. In the central parcel on Exhibit  
 6 1, I think.  
 7 MR. SILVER: Exhibit 2. He's looking  
 8 at Exhibit 2, and he's pointing to that big green  
 9 circle around central parcels.  
 10 THE WITNESS: Yes.  
 11 MR. SILVER: Let the record reflect.  
 12 MR. THUMANN: Okay. I don't have any  
 13 other questions.  
 14 **RE CROSS-EXAMINATION**  
 15 **BY MS. KNOWLTON:**  
 16 Q. This is Leah Knowlton again. I  
 17 wanted to ask you if you recalled in your 2012  
 18 deposition your testimony about Hobart  
 19 Corporation delivering -- or dumping drums of  
 20 waste at the South Dayton Dump?  
 21 A. To my recollection, I can't recall  
 22 if I said that they did.  
 23 Q. Hobart Corporation?  
 24 A. Yes.  
 25 Q. As you sit here today, do you

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1 recall ever seeing Hobart waste at the dump?  
 2 A. No.  
 3 Q. Do you recall seeing Hobart  
 4 Corporation trucks bringing waste to the dump?  
 5 A. No.  
 6 Q. Do you have any reason to connect  
 7 Hobart Corporation to the South Dayton Dump?  
 8 A. No.  
 9 MS. KNOWLTON: I have no further  
 10 questions.  
 11 MR. SILVER: Steve, do you have a  
 12 question?  
 13 RECROSS-EXAMINATION  
 14 BY MR. HAUGHEY:  
 15 Q. This is Steve Haughey.  
 16 Mr. Wendling, I believe you testified a little  
 17 bit earlier that at the time that you were  
 18 picking or salvaging at the site, you didn't  
 19 think that there were any other dump sites or  
 20 landfills open in the Dayton area; is that  
 21 correct?  
 22 A. Correct.  
 23 Q. Okay. But didn't you then testify  
 24 a couple minutes later that there had to be at  
 25 least another landfill open that was taking all

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1 Q. Yes.  
 2 A. No.  
 3 Q. So you don't know anything about  
 4 it and if there was such a landfill, you would  
 5 have no idea when it opened, correct?  
 6 MR. SILVER: Objection. Calls for  
 7 speculation.  
 8 Q. You can answer.  
 9 A. I never heard of that.  
 10 Q. The North Sanitary Landfill?  
 11 A. North Sanitary.  
 12 Q. Right. Have you ever heard of it  
 13 before?  
 14 A. I know that there's a north  
 15 sanitary incinerator.  
 16 Q. I'm talking about the North  
 17 Sanitary Landfill.  
 18 A. No.  
 19 Q. Have you heard of a dump site  
 20 called the S T E S T E S dump site?  
 21 A. No.  
 22 Q. Have you heard of the Pinnacle  
 23 Road Landfill?  
 24 A. I worked on that dump, yes.  
 25 Q. Do you know when it opened?

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1 the garbage from garbage trucks around the  
 2 Dayton area?  
 3 A. I never said that.  
 4 Q. Oh, you didn't?  
 5 A. No.  
 6 Q. Well, where did all the garbage  
 7 trucks go with regular garbage then?  
 8 A. My answer was I would like to know  
 9 myself. I don't know.  
 10 Q. Okay. But you do remember seeing  
 11 garbage trucks in the Dayton area during that  
 12 time?  
 13 A. Well, yes, there would have to be.  
 14 Q. So --because it had to go  
 15 somewhere, correct?  
 16 A. Right.  
 17 Q. Let's go at it a different way.  
 18 I'm trying to figure out why you think there  
 19 were no other dump sites or landfills open at  
 20 the time that you recall picking or salvaging  
 21 at the South Dayton Dump site. So let me run a  
 22 few names by you.  
 23 Do you know of a landfill or a dump  
 24 site called the Cardington Road Landfill.  
 25 A. Cardington Road?

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1 A. When I worked there, it could have  
 2 been in operation at the time. But I don't  
 3 think so.  
 4 Q. When was that?  
 5 A. That's when I was sixteen, in that  
 6 area someplace.  
 7 Q. And the last one is Powell Road  
 8 Landfill. I remember you stating you had heard  
 9 of that landfill.  
 10 A. Okay. I'm getting a little  
 11 confused now. Powell Road, that was -- that  
 12 would have been the one that I worked on.  
 13 Powell Road.  
 14 Q. Okay. So do you know anything  
 15 about the Pinnacle Road Landfill?  
 16 A. At that time -- at that time, no.  
 17 Q. Okay. Do you know anything about  
 18 the Pinnacle Road Landfill today?  
 19 A. I think I might have heard that  
 20 there may have been one there, but I don't know  
 21 nothing about it.  
 22 Q. So you wouldn't know when it  
 23 opened, correct?  
 24 A. No.  
 25 Q. So what is the basis -- based on

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1 all your responses, what's the basis for your  
2 earlier testimony that there were no other dump  
3 sites open in the Dayton area at the time you  
4 would have been picking or salvaging from your  
5 uncle's dump site?  
6 A. I'm -- well, I have to say this.  
7 I'm from Dayton south area. And -- well, the  
8 whole Dayton area, everybody knew South Dayton  
9 Dump and that was -- which was ever mentioned.  
10 Q. Okay. To the best of your  
11 recollection, did any of the South Dayton Dump  
12 site customers come from north of Dayton?  
13 A. I couldn't say that.  
14 Q. Okay. Did any of the -- to the  
15 best of your recollection, any of the south  
16 Dayton side customers come from east Dayton?  
17 A. I'd say in the whole Dayton area.  
18 Q. I only asked you about the east  
19 side.  
20 A. Oh, okay. Yes.  
21 Q. Okay. Who would that be?  
22 A. Customers, just people that lived  
23 in the area.  
24 Q. Were there -- you can't name a  
25 customer, correct?

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1 Q. Now, on the issue of the South  
2 Dayton Dump without other dumps, when I asked  
3 you that question on my examination, do you  
4 remember me saying was that -- was the South  
5 Dayton Dump the only dump operating when you  
6 began picking at the site, which you said was  
7 around nine years old after your dad died and  
8 Uncle Cyril sort of took you under his wing?  
9 Do you remember me asking you that question  
10 that way?  
11 A. To my knowledge, it was the only  
12 one around.  
13 Q. And you mentioned that it was the  
14 only burning dump around, right?  
15 A. And that could be -- if you say  
16 that -- hold on. How do I say about it?  
17 Q. Go ahead.  
18 A. If you say there was a dump over  
19 somewheres, it could have been a dump for  
20 construction stuff, wood maybe. But I'd say  
21 not as a burning dump, no. I'd say Dayton,  
22 South Dayton was the only burning dump.  
23 Q. Were you aware of any other dumps  
24 that accepted at that time, we're talking about  
25 when you were about nine years old when you

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1 A. Well, no. No.  
2 Q. Were most of the South Dayton Dump  
3 site customers located in close proximity to  
4 the South Dayton Dump site?  
5 A. Say it again.  
6 Q. Were most -- in your opinion, were  
7 most of the South Dayton Dump site customers,  
8 industrial customers, located in close  
9 proximity to the site?  
10 A. Yes.  
11 MR. HAUGHEY: Okay. I have no  
12 further questions. Thank you.  
13 (Thereupon, an off-the-record  
14 discussion was had.)  
15 FURTHER REDIRECT EXAMINATION  
16 BY MR. SILVER:  
17 Q. Mike, the attorney for  
18 Sherwin-Williams stated multiple times that you  
19 observed the Sherwin-Williams truck six or less  
20 times.  
21 A. Yes.  
22 Q. Are those his words or your words  
23 or both?  
24 A. I maybe could have been a little  
25 coast -- stabler on that number.

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1 started picking there, were you aware of any  
2 other dumps that accepted industrial waste?  
3 MR. McCALL: Objection. Form.  
4 Q. You can answer.  
5 A. No.  
6 MR. SILVER: Anyone on the phone?  
7 MR. HARBECK: Can we take a  
8 five-minute break and hopefully wrap up?  
9 (Thereupon, a break was had.)  
10 MR. SILVER: We're back in the room  
11 for those on the phone. Does anyone wish to ask  
12 any further questions?  
13 MR. HARBECK: Yeah. I just have a  
14 follow-up or two.  
15 RECROSS-EXAMINATION  
16 BY MR. HARBECK:  
17 Q. Mr. Wendling, I'll ask them from  
18 here.  
19 A. Okay.  
20 Q. Tell me if you can't hear me. I  
21 want to ask you focusing solely on Hobart, back  
22 in your 2012 deposition, you were asked a  
23 number of questions and you gave responses to a  
24 number of questions about Hobart waste disposal  
25 at the South Dayton Dump.

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<p>1 A. Okay.</p> <p>2 <b>Q. When you gave those answers, were</b></p> <p>3 <b>those answers back in 2012 truthful and</b></p> <p>4 <b>accurate, to the best of your recollection?</b></p> <p>5 A. Well, sure. Yes.</p> <p>6 MR. HARBECK: Thank you. That's all</p> <p>7 I have.</p> <p>8 MR. SILVER: Are we finished? Yes.</p> <p>9 Well, we're adjourning the deposition. I did want</p> <p>10 to mention -- we can go off the record.</p> <p>11 (Thereupon, an off-the-record</p> <p>12 discussion was had.)</p> <p>13 (Thereupon, signature was waived.)</p> <p>14 (Thereupon, the deposition was</p> <p>15 concluded at 4:19 p.m.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 282</p>	<p>1 STATE OF OHIO )</p> <p>2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE</p> <p>3 I, Michelle A. Elam, a Notary</p> <p>4 Public within and for the State of Ohio, duly</p> <p>5 commissioned and qualified,</p> <p>6 DO HEREBY CERTIFY that the</p> <p>7 above-named MICHAEL A. WENDLING, was by me first</p> <p>8 duly sworn to testify the truth, the whole truth</p> <p>9 and nothing but the truth.</p> <p>10 Said testimony was reduced to</p> <p>11 writing by me stenographically in the presence</p> <p>12 of the witness and thereafter reduced to</p> <p>13 typewriting.</p> <p>14 I FURTHER CERTIFY that I am not a</p> <p>15 relative or Attorney of either party, in any</p> <p>16 manner interested in the event of this action,</p> <p>17 nor am I, or the court reporting firm with which</p> <p>18 I am affiliated, under a contract as defined in</p> <p>19 Civil Rule 28(D).</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 283</p>
<p>1 IN WITNESS WHEREOF, I have hereunto set</p> <p>2 my hand and seal of office at Dayton, Ohio, on</p> <p>3 this 7th day of May, 2014.</p> <p>4</p> <p>5</p> <p>6 -----</p> <p>7 MICHELLE A. ELAM</p> <p>8 NOTARY PUBLIC, STATE OF OHIO</p> <p>9 My commission expires 5-2-2015</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 284</p>	

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

SYNGENTA SEEDS, INC.,

Plaintiff,

v.

UNIVERSITY OF TOLEDO,

Defendant.

) **Case Number:**

) **Judge:**

) **MOTION TO ADMIT RUSSELL  
LEVINE, HARI SANTHANAM, AND  
KOURTNEY BALTZER *PRO HAC*  
VICE**

Pursuant to Local Rule 83.5(h), Plaintiff Syngenta Seeds, Inc., through its local counsel Gallagher Sharp, moves the Court for the *pro hac vice* admission of Attorney Russell Levine, Hari Santhanam, and Kourtney Baltzer, so that they may appear and participate in this case on behalf of Plaintiff Syngenta Seeds, Inc., and be added as an attorney of record on the Court's docket. The *pro hac vice* admission fee and the Affidavits of Russell Levine, Hari Santhanam, and Kourtney Baltzer attesting to their current good standing (attached as Exhibit A-C, respectively) have been submitted with this motion.

The following additional information regarding Attorney Del Carpio is provided as required by local rule:

Russell Levine (Illinois Bar No. \_\_\_\_\_)  
Hari Santhanam (Illinois Bar No. \_\_\_\_\_)  
Kourtney Baltzer (Illinois Bar No. \_\_\_\_\_)  
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Attorney Levine was admitted to practice before the State Bar of Illinois on \_\_\_\_\_. He is also admitted to practice before \_\_\_\_\_[list courts that you are admitted in]. Attorney Santhanam was admitted to practice before the State Bar of Illinois on \_\_\_\_\_. He is also admitted to practice before \_\_\_\_\_[list courts that you are admitted in]. Attorney Baltzer was admitted to practice before the State Bar of Illinois on \_\_\_\_\_. She is also admitted to practice before \_\_\_\_\_[list courts that you are admitted in].

Attorney Levine, Attorney Santhanam, and Attorney Baltzer are members in good standing in every jurisdiction in which they have been admitted to practice and no disciplinary actions are pending against them. They has never been disbarred or suspended from practice before any court, department, bureau or commission of any State or the United States, nor has he received any reprimand from any such court, department, bureau, or commission pertaining to conduct or fitness as a member of the bar.

Based upon the foregoing, the undersigned respectfully requests that the Motion for *Pro Hac Vice* Admission of Russell Levine, Hari Santhanam, and Kourtney Baltzer be granted.

Respectfully submitted,

/s/ Robert H. Eddy  
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***Attorneys for Plaintiff,***  
***Syngenta Seeds, Inc.***

### **PROOF OF SERVICE**

This is to certify that a copy of the foregoing was electronically filed with the Court on April \_\_, 2015. Notice will be sent to all counsel of record and/or parties by operation of the Court's electronic case filing system. Parties may access this through the Court's electronic case filing system.

/s/ Robert H. Eddy

**Robert H. Eddy (0030739)**


**Sarah V. Beaubien (0087735)**



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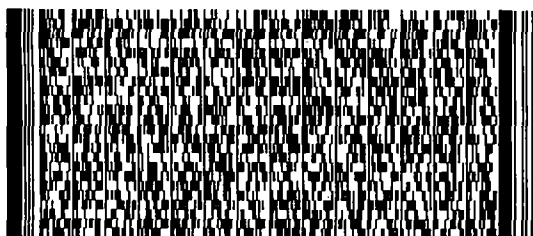
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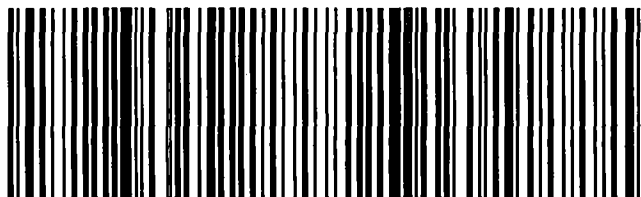
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